

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE**

**CHAPTER 154: ZONING CODE**

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## **GENERAL PROVISIONS**

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / GENERAL PROVISIONS / § 154.001 TITLE AND AUTHORIZATION.**

#### **§ 154.001 TITLE AND AUTHORIZATION.**

(A) *Long title.* A chapter to provide for the comprehensive zoning of the city, establishing use districts, encouraging, regulating, and restricting therein the location, construction, reconstruction, alteration and use of structures and land, providing for off-street parking, regulating signs, authorizing special zoning certificates; controlling nonconforming uses, establishing a zoning districts map, providing for the administration of this chapter, defining the powers and duties of the Zoning Enforcement Officer, Planning Board, Board of Zoning Appeals, and City Council, pertaining to zoning responsibilities and providing for penalties for the violation of the provisions in this chapter or any amendment thereto.

(B) *Short title.* This chapter shall be known as the Zoning Code of Tipp City Ohio.

(C) *Authorization.* This chapter is authorized by the provisions of R.C. Chapter 713.

(1974 Code, § 154.001) (Ord. 26-93, passed 8-16-1993)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / GENERAL PROVISIONS / § 154.002 INTENT AND PURPOSE.**

#### **§ 154.002 INTENT AND PURPOSE.**

(A) The Zoning Code of this city is adopted with the purpose of promoting and protecting the public health, safety, comfort, convenience, and general welfare of the people. The fulfillment of this purpose is to be accomplished by seeking:

(1) To encourage and facilitate orderly, efficient, and appropriate growth and development;

(2) To establish population densities to prevent or reduce congestion and to secure economy

in the cost of providing water supply and sewerage systems, streets, and highways, fire and police

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protection, schools, parks and recreation facilities, and other governmental services;

(3) To zone all properties with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city;

(4) To protect residential, business, commercial and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses;

(5) To avoid the inappropriate development of lands and provide for adequate drainage, curbing of erosion, and reduction of flood damage; and

(6) To foster a more rational pattern of relationship between residential, business, commercial and manufacturing uses for the mutual benefit of all.

(B) The standards and requirements contained in this chapter and the district mapping reflected on the Tipp City Zoning Map, are intended to further the implementation of the future planning objectives for the city as well as protect all desirable existing structures and uses.

(1974 Code, § 154.002) (Ord. 26-93, passed 8-16-1993)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / GENERAL PROVISIONS / § 154.003 INTERPRETATION.**

#### **§ 154.003 INTERPRETATION.**

(A) *Interpretation of provisions.*

(1) In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, comfort, morals, convenience and general welfare.

(2) It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, nor is it intended by this chapter to interfere with, abrogate or annul any laws or ordinances, other than expressly repealed hereby, or any rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or provided, pursuant to law, relating to the use of buildings or land, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land than are required or imposed by such easements, covenants, or agreements between parties, or by such laws, ordinances, rules, regulations or permits, the provisions of this chapter shall govern.

(B) *Validity and separability.* It is hereby declared to be the legislative intent that, if  
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any provision or provisions of this chapter, or the application thereof to any zoning lot, building, or other structure, or tract of land, are declared by a court of competent jurisdiction to be invalid or ineffective in whole or in part, or to be inapplicable to any person or situation, the effect of such decision shall be limited to the provision or provisions which are expressly stated in the decision to be invalid or ineffective to the zoning lot, building or other structure, or tract of land immediately involved in the controversy. All other provisions of this chapter shall continue to be separate and fully effective, and the application of any such provisions to other persons or situations shall not be affected.

(C) *Repeal of conflicting ordinance.* All ordinances or parts of ordinances in conflict with this Zoning Code or inconsistent with the provisions of this chapter are hereby repealed to the extent necessary to give this chapter full force and effect.

(1974 Code, § 154.003) (Ord. 26-93, passed 8-16-1993)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / GENERAL PROVISIONS / § 154.004 DEFINITIONS.**

#### **§ 154.004 DEFINITIONS.**

(A) The purpose of this section is to promote consistency and precision in the interpretation of the zoning regulations. The meaning and construction of words and phrases defined in this chapter shall apply throughout the Zoning Code, except where the context of such words or phrases clearly indicates a different meaning or construction.

(B) General rules for construction of language. The following general rules of construction shall apply to the text of the Zoning Code:

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of any provision and any caption or illustration, the text shall control.
- (3) The word **PERSON** includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (4) References in the masculine and feminine genders are interchangeable.
- (5) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (6) The word **SHALL** is a mandatory requirement, the word **MAY** is a

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permissive requirement, and the word **SHOULD** is a preferred requirement.

(7) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED, OR ARRANGED TO BE USED OR OCCUPIED**.

(8) The word **LOT** includes the words **PLOT** or **PARCEL**.

(9) The words **ACTIVITIES** and **FACILITIES** include any part thereof.

(10) Unless the context clearly indicates to the contrary, the following conjunctions shall be interpreted as follows:

(a) **AND** indicates that all connected items or provision shall apply.

(b) **OR** indicates that the connected items or provisions shall apply singly but not in combination.

(c) **EITHER.... OR** indicates that the connected items or provisions shall apply singly but not in combination.

(11) The word **DISTRICT** means a general district established by this title, unless otherwise indicated by specific reference to another kind of district.

(12) All public officials, bodies, and agencies to which reference is made are those of the city unless otherwise indicated.

(13) The word **CITY** or **MUNICIPALITY** means the City of Tipp City, Ohio.

(C) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDON.** To cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

**ABUTTING.** Having property or district lines in common.

**ACCESS.** A way or means of approach to provide physical entrance to a property.

**ACCESSORY USE OR STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure.

**ADDITION.** Any construction which increases the size of a building or facility in terms of site coverage, height, length, width, or gross floor area, such as a porch, attached garage or carport, or a new room or wing.



**ADULT ENTERTAINMENT FACILITY.** A facility having a significant portion of its function as adult entertainment which includes the following listed categories:

(1) **ADULT BOOK STORE.** An establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to specified sexual activities or specified anatomical areas as herein defined, or an establishment with a segment or section devoted to the sale or display of such material.

(2) **ADULT MINI-MOTION PICTURE THEATER.** A facility with a capacity for less than 50 persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or "specified anatomical areas" for observation by patrons therein.

(3) **ADULT MOTION PICTURE THEATER.** A facility with a capacity of 50 or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(4) **ADULT ENTERTAINMENT BUSINESS.** Any establishment involved in the sale of services or products characterized by the exposure or presentation of "specified anatomical areas" or physical contact of live males or females, and which is characterized by salacious conduct appealing to prurient interest for the observation or participation in by patrons. Services or products included within the scope of adult entertainment business are photography, dancing, reading, massage, and similar functions which utilize activities as specified above.

(5) **MASSAGE ESTABLISHMENT.** Any establishment having a fixed place of business where massages are administered for pay. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the state, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulder.

(6) **MASSAGE.** A method of treating or stimulating the external parts of the human body by rubbing, stroking, kneading, tapping, touching or vibrating with the hand or any instruments for pay.

(7) **SPECIFIED SEXUAL ACTIVITIES.**

(a) Human genitals in a state of sexual stimulation or arousal.

(b) Acts, real or simulated, of human masturbation, sexual intercourse, sodomy, cunnilingus, or fellatio.

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(c) Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts.

(8) ***SPECIFIED ANATOMICAL AREAS.***

(a) Less than completely and opaquely covered human genitals, public region, buttock, and female breasts below a point immediately above the top of the areola.

(b) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

***AGRICULTURE.*** The use of a tract of land for the planting, harvesting, and marketing of crops and produce; the breeding, feeding, and marketing of livestock; horticulture; floriculture; structures necessary for performing these operations; and the residence of the owner or operator. Such agricultural use shall not include the following uses:

(1) Small gardens and fruit bearing trees or shrubbery that are associated with residential uses where the harvests are consumed or used exclusively by persons residing on the premises, shall not be considered as part of the definition of agriculture.

(2) The maintenance and operation of commercial greenhouses or hydroponic farms, except in zoning districts in which such uses are expressly permitted.

(3) Wholesale or retail sales as accessory use, unless the same are specifically permitted by this chapter.

(4) The feeding or sheltering of animals or poultry in penned enclosures within 100 feet of any residential zoning district. Agriculture does not include the feeding of garbage to animals, or the operation or maintenance of a commercial stockyard or feed yard.

***AGRICULTURAL MARKET.*** Any fixed or mobile retail food establishment which is engaged primarily in the sale of raw agricultural products, but may include as accessory to the principal use, the sale of factory-sealed or prepackaged food products that normally do not require refrigeration.

***ALLEY.*** See ***STREET, ALLEY.***

***ALTERATION.*** Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as ***ALTERED*** or ***RECONSTRUCTED***.

***AMUSEMENT AND RECREATION SERVICES.*** Establishments engaged in providing amusement or entertainment for a fee or admission charge and include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment;

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bowling alleys and billiard and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusement parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools, riding academies, carnival operations; expositions; game parlors and horse shows.

***ANIMAL HOSPITAL.*** See ***VETERINARY ANIMAL HOSPITAL.***

***ANIMAL KENNEL.*** See ***KENNEL.***

***APARTMENT.*** A room or a suite of rooms within an apartment house, arranged, intended or

designed to be used as a home or residence of 1 family with kitchen facilities for the exclusive use of the 1 family. Apartments shall not be permitted to have outside doors to bedrooms.

***APARTMENT BUILDING.*** A building which is used or intended to be used as a home or residence for 3 or more families living in separate apartments, in which the yard areas, hallways, stairways, balconies and other common areas and facilities are shared by families living in the apartment units.

***APARTMENT, GARDEN.*** See ***DWELLING, GARDEN APARTMENT.***

***APARTMENT, HIGH-RISE.*** See ***DWELLING, HIGH-RISE.***

***APARTMENT HOUSE.*** A structure containing 3 or more apartment units. See ***DWELLING, MULTI-FAMILY.***

***APARTMENT, MID-RISE.*** See ***DWELLING, MID-RISE.***

***ARCHITECTURAL ELEVATION.*** A scale drawing of the front, side or rear of a building or structure.

***ARTERIAL STREET.*** See ***STREET, MAJOR ARTERIAL.***

***ASSESSMENT RATIO.*** The relation between the assessed value of a property and true market value.

***AUTOMATIC CAR WASH.*** A structure containing facilities for washing automobiles using a chair conveyer or other method of moving the cars along, and automatic or semiautomatic application of cleaner, brushes, rinse water and heat for drying.

***AUTOMOBILE REPAIR GARAGE.*** A place where the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; painting and undercoating of automobiles.

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**AUTOMOBILE SERVICE STATION.** A place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene or motor oil and lubricants or grease (for operation of automobiles) are retailed directly to public on premises; including sale of minor accessories and services for automobiles.

**AQUIFER.** A glacial formation, group of glacial formations, or part of a glacial formation that contains enough saturated permeable material to yield significant quantities of water.

**BASEMENT.** That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling and with a floor-to-ceiling height of not less than 6 ½ feet.

**BED AND BREAKFAST HOMESTAY.** A private, owner-operated residence with 1 to 3 guest rooms. Accommodations are of a relatively short term nature (less than 1 week in duration) and no more than 1 meal is served. Transit accommodations are subordinate and incidental to the main residential use of the building.

**BED AND BREAKFAST INN.** Similar in function to the B & B Homestay with the exception of scale and purpose. The bed and breakfast inn is operated primarily as a business and typically has from 4 to 20 guest rooms.

**BLOCK.** A piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.

**BOARD.** The Tipp City Planning Board.

**BOARDING HOUSE.** A dwelling or part thereof, in which lodging is provided by the owner or operator to more than 3 boarders.

**BOARDING STABLE.** A structure designated for the feeding, housing and exercising of horses not owned by the owner of the premises.

**BOND.** Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the city. All bonds shall be approved by the city whenever a bond is required by these regulations.

**BUFFER STRIP.** A strip of land established to protect 1 type of land use from another with which it is incompatible. Buffer zones are described in the chapter with reference to neighboring districts. Where a commercial district abuts a residential district, for example, additional use, yard, or height restrictions may be imposed to protect residential properties. Normally, a buffer zone is landscaped and kept in open space uses.

**BUILDABLE AREA.** The portion of a lot remaining after required yards have been provided. See Figure II, in Appendix A following this chapter.

**BUILDING.** Any covered structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind; and which is permanently affixed to the ground by means of a footer and foundation as defined in the Miami County Building Code.

**BUILDING, ACCESSORY.** A building which is subordinate to and serves a principal structure or a principal use, is subordinate in area, extent, and purpose to the principal structure or use served, is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this chapter, and is customarily incidental to the principal structure or use. Any portion of a principal structure devoted or intended to be devoted to an accessory use is not an accessory structure.

**BUILDING, ATTACHED.** A building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and/or a common roof with a common horizontal dimensions of 8 feet or more. See **BUILDING, SEMI-ATTACHED.**

**BUILDING COVERAGE.** The horizontal area measured within the outside of the exterior walls of

the ground floor of all principal and accessory buildings on a lot.

**BUILDING FRONTAGE.** For the purpose of computation of number and area of signs permitted on buildings, in cases where lineal feet of building frontage is a determinant, the frontage of a building shall be computed as the horizontal distance across the front as nearly at ground level as computation of horizontal distance permits. In cases where the test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance or where 2 or more sides of a building have entrance or where 2 or more sides of a building have entrances of equal importance and carry approximately equal amounts of pedestrian traffic, the administrative official shall select building frontage on the basis of the interior layout of the building, traffic on adjacent streets or other indicators available.

**BUILDING HEIGHT.** The vertical distance measured from the average elevation of the finished grade within 20 feet of the structure to the highest point.

**BUILDING LINE.** A line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be set back from said right-of-way, except as specified in § 154.061.

**BUILDING PERMIT.** Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.

**BUILDING, PRINCIPAL.** A building in which is conducted the main or principal use

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of the lot on which said building is situated, and including areas such as garages, carports, storage sheds, and the like which are attached to and architecturally integrated with the principal building.

***BUILDING, SEMI-ATTACHED.*** A building attached to another building by a common wall (such wall being a solid wall with or without windows and doors) and/or a common roof with a common horizontal dimension less than 8 feet. See ***BUILDING, ATTACHED.***

***BUILDING SETBACK.*** The closest point at which a building may be constructed in relation to the lot line.

***BULK PLANT.*** That portion of a property where flammable liquids are received by tank vessel, pipe line, tank car, or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids by tank vessel, pipe line, tank car, tank vehicle, or container.

***BULK REGULATIONS.*** Standards that control the height, density, intensity and location of structures.

***BUSINESS, GENERAL.*** Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the community, also supply the more durable and permanent needs of the whole community. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances and furniture; department stores; and discount stores.

***BUSINESS, HIGHWAY.*** Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations; truck and auto sales and service; restaurants and motels; and commercial recreation.

***BUSINESS NEIGHBORHOOD.*** Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry outs, if less than 10,000 square feet in floor area. Uses in this classification tend to serve a day-to-day need in the neighborhood.

***BUSINESS, OFFICE TYPE.*** Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses.

Office business generally accommodates such occupations as administrative, executive, professional, accounting, writing, clerical, stenographic, and drafting, institutional offices of a charitable, philanthropic or religious or educational nature are also included in this classification.

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**BUSINESS OR TRADE SCHOOL.** A use, a college or university providing education or training in business, commercial, similar activity or pursuit, and not otherwise defined as a home occupation or private educational facility.

**BUSINESS WHOLESALE.** Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, and/or other wholesale establishments. These commodities are basically for future resale, for use in the fabrication of a product, or for use by a business service.

**CAMPING AND RECREATIONAL EQUIPMENT.** For the purpose of this chapter, camping and recreational equipment shall include the following:

(1) **BOAT and BOAT TRAILER.** Boat and boat trailer shall include boats, floats and rafts plus the normal equipment to transport the same on the highway.

(2) **FOLDING TENT TRAILER.** A canvas folding structure, mounted on wheels and designed for travel and vacation uses.

(3) **MOTORIZED HOME (MOTOR HOME).** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(4) **PICK-UP CAMPER (MOTOR HOME).** A structure designed primarily to be mounted on a pick-up truck chassis and with sufficient equipment to render it suitable for use for travel, recreational, or vacation uses.

(5) **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified travel trailer by the manufacturer.

**CARPORT.** A roofed shelter, open on at least 2 sides, designed as a shelter for automobiles or other vehicles. A carport may be freestanding or may be formed by extension of a roof from the side of a building. A carport shall not be considered a private garage.

**CERTIFICATE OF OCCUPANCY.** A document issued by the proper authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable municipal codes and ordinances.

**CHILD CARE CENTER.** A private establishment enrolling 4 or more children between 2 and 5 years of age and where tuition, fees, or other forms of compensation for the care of the children is charged, and which is licensed or approved to operate as a child care center.

**CHURCH.** A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and

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accessory uses associated therewith, including parish house and educational unit.

**CITY.** The City of Tipp City, Ohio.

**CITY COUNCIL.** The City Council of the City of Tipp City, Ohio.

**CLINIC.** An establishment where patients are admitted for examination and treatment by 1 or more physicians, dentists, psychologists or social workers and where patients are not usually lodged overnight.

**CLUB, PRIVATE.** A building or portion thereof or premises owned or operated for social, literary, political, educational, or recreational purposes primarily for the exclusive use of members and their guests, but not operated for profit. Alcoholic beverages may be secondary and incidental to the

promotion of some other common objective of the organization, and further provided that the sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local law.

**CLUSTER.** A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**CLUSTER SUBDIVISION.** A form of development for single-family residential subdivisions that permits a reduction in lot area and bulk requirements, provided there is no increase in the number of lots permitted under a conventional subdivision and the resultant land area is devoted to open space.

**COLLEGE.** An educational institution authorized by the state to award baccalaureate or higher degrees.

**COMMERCIAL ENTERTAINMENT FACILITIES.** Any profit making activity which is generally related to the entertainment field, such as motion picture theaters, carnivals, nightclubs, cocktail lounges, and similar entertainment activities.

**COMMERCIAL RECREATION.** A use providing recreation including bowling lanes, billiard parlors, skating arenas, and similar facilities for patron participation operated on a non-profit or for-profit basis, but excluding uses defined as outdoor recreation service.

**COMMERCIAL USE.** Activity carried out for pecuniary gain.

**COMMERCIAL VEHICLE.** Any motor vehicle licensed by the state as a commercial vehicle.

**COMMUNITY CENTER.** A place, structure, area, or other facility used for and providing religious, fraternal, social and/or recreational programs generally open to the public



and designated to accommodate and service significant segments of the community.

**COMMUNITY ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES.** A facility which provides resident services to a group of individuals of whom 1 or more are unrelated. These individuals are mentally ill, mentally retarded, handicapped, aged, or disabled; and/or are undergoing rehabilitation; and are provided services to meet their needs. This category includes uses licensed, supervised or under contract by any federal, state, county or other political subdivision. Community oriented residential social service facilities include the following listed categories:

(1) **FOSTER CARE RESIDENTIAL FACILITIES.** Homes or facilities in which some level of care and/or support is provided to the person residing in the facility who suffers from a mental or physical impairment, is undergoing transition from an institution to the community or for whom other forms of care and support are inappropriate or unavailable. The facility is licensed by an appropriate local and/or state agency which is charged with program development for a specific population. This definition excludes all forms of independent living as well as rest homes, nursing homes, facilities housing more than 16 persons, residences housing 1 or 2 persons and institutions.

(a) **FAMILY CARE HOMES.** Residential facilities that provide room and board, personal care, rehabilitation services, and supervision in a family setting for from 3 to 5 persons (adults or children) who are mentally ill, mentally retarded, have any form of developmental disability or cannot reside with their natural family.

(b) **GROUP CARE HOMES.** Residential facilities that provide the services of family homes for at least 6 but not more than 16 persons (adults or children) who are mentally ill, mentally retarded, have any form of developmental disability or cannot reside with their natural family.

(2) **SOCIAL CARE HOMES.** Residential homes for children or adolescents who lack social maturity or have emotional problems but who have not been judged delinquent by the criminal justice system. Residency may be permanent or transient.

(3) **INTERMEDIATE CARE HOMES.** Residential homes for children or adolescents who have been judged delinquent and have been assigned by a court to a residential home in lieu of placement in a correctional institution.

(4) **HALFWAY HOUSES.** Residential homes for adolescents or adults who have been institutionalized through the criminal justice system and released or who have had alcohol or drug problems which make operation in society difficult and who require the protection of a group setting.

**COMPREHENSIVE DEVELOPMENT PLAN.** A plan including all attachments adopted by describing both graphically and narratively the existing physical characteristics of the

city as well as a proposed generalized land use pattern for the future. A major portion of the plan consists of recommended policies to guide the development of major types of land use, thoroughfares and other pertinent public facilities as well as the preservation of major aspects of the city's environmental resources.

**CONDOMINIUM.** A building or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.

**CONGREGATE HOUSING.** A housing arrangement for more than 3 elderly persons who are independent adults where at least meal services are provided. Other services provided to the residents from within the home may include transportation and housekeeping. Personal assistance or care is not provided.

**CONSTRUCTION, BEGINNING OF.** The utilization of labor and/or materials on the footings, foundations, walls, roofs and other portions of the building or structure.

**CONVALESCENT HOMES.** See **HOME, CONVALESCENT.**

**CONVENIENCE STORE.** A retail store that caters to the motoring public where the sale of food items such as hot or cold drinks, prepackaged foods, and tobacco, road maps, magazines and other publications, automotive maintenance items such as brake fluid, oil, polishes, anti-freeze, and similar products, and other retail items that may be readily purchased. A convenience store does not sell gasoline or other fuels.

**COVENANT.** A private legal restriction on the use of land, contained in the deed to the property or otherwise formally recorded. There may be certain legal requirements for formal establishment of a covenant such as a written document, a mutual interest in the property, that the covenant be concerned with the use of the land rather than individual characteristics of the ownership, and the like. Covenants are most commonly used in the establishment of a subdivision to restrict the use of all individual lots in the development to a certain type of use, that is, single-family dwellings. They are also used in rezoning situations, where contract or conditional zoning is permitted, to bind the landowner to use his property in a specific manner. Finally, they have been used by some communities, that is, Houston, Texas, to accomplish through private restrictions much of what zoning does through governmental action.

**COVERED.** A space roofed or permanently covered by a structure having less than 50% open penetration to the sky.

**CUL-DE-SAC.** See **STREET, CUL-DE-SAC.**

**CURB CUT.** The opening along the curb line at which point vehicles may enter or leave the roadway.

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**DAY CARE CENTER.** A facility licensed by the state for daytime care of more than 3 persons. This term includes nursery schools, pre-schools, and similar facilities.

**DE MINIMIS QUANTITY.** A specified amount of regulated substances, expressed in gallons and/or pounds, that is excluded from the provisions of the Wellhead Operation District (sometimes referred to as the WO District) and the Well Field Protection Overlay District (sometimes referred to as the WP District or Overlay District or Protection Overlay District) regulations. Any use of regulated substances in excess of the de minimis quantities and not explicitly subject to exclusion is considered in violation of this chapter and §§ 154.062 and 154.063.

**DEAD-END STREET.** See **THOROUGHFARE, STREET, DEAD-END.**

**DECIBEL.** A unit of sound pressure level.

**DECIDUOUS.** Plants that drop their leaves before becoming dormant in winter.

**DEED RESTRICTIONS.** See **COVENANT.**

**DENSITY.** A unit of measurement; the number of dwelling units per acre of land.

(1) **GROSS DENSITY.** The number of dwelling units per acre of the total land to be developed.

(2) **NET DENSITY.** The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses.

**DETENTION BASIN (POND).** A facility for the temporary storage of storm water run-off.

**DEVELOPED PROPERTY.** Property upon which a building has been erected.

**DEVELOPER.** The legal or beneficial owner or owners of a lot or of any land included in a proposed development including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land.

**DEVELOPMENT PLAN.** See **SITE PLAN.**

**DEVELOPMENT STANDARDS.** Standards controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Development standards include regulations controlling maximum height, minimum lot area, minimum lot frontage, minimum size of yards and setbacks, maximum lot coverage and maximum floor area ratio.

**DEVELOPMENTALLY DISABLED.** Having a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or dyslexia resulting from these, or any other

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condition closely related to mental retardation in terms of intellectual and adaptive problems.

***DIRECT RECHARGE AREA.*** That portion of a drainage basin in which water infiltrating vertically from the surface will intercept the water table.

***DORMITORY.*** A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery or other similar institutional use.

***DOUBLE WIDE UNIT.*** Two mobile home units, attached side by side, which constitute the complete mobile home.

***DRAINAGE.*** Surface water run-off; the removal of surface water or groundwater from land by drains, grading or other means which include run-off controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

***DRAINAGE AREA.*** That area in which all of the surface run-off resulting from precipitation is concentrated into a particular stream.

***DRAINAGE DISTRICT.*** A district established by a governmental unit to build and operate facilities for drainage.

***DRAINAGEWAY.*** A water course, gully, dry stream, creek, or ditch which carries stormwater run-off, which is subject to flooding or ponding, which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such water course, gully, dry stream, creek or ditch.

***DRIVE-IN RESTAURANT.*** See ***RESTAURANT, DRIVE-IN.***

***DRIVE-IN USE.*** An establishment which by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles.

***DUPLEX.*** See ***DWELLING, TWO-FAMILY.***

***DWELLING.*** Any building or portion thereof occupied or intended to be occupied exclusively for residential purposes, but not including a mobile home, tent, cabin, trailer or trailer coach or other temporary or transient structure or facility.

***DWELLING, ATTACHED.*** A 1-family dwelling attached to 2 or more 1-family dwellings by common vertical walls.

***DWELLING, DETACHED.*** A dwelling which is not attached to any other dwelling by any means.

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***DWELLING, GARDEN APARTMENT.*** A garden apartment is a multi-family dwelling. The commonly accepted configuration of a garden apartment in terms of density (usually 10 to 15 dwelling units per acre in a suburban community, somewhat higher in an urban area and lower in a rural area), height (usually not more than a maximum of 2-1/2 stories or 35 feet with 2 levels of dwelling units), and maximum length of a structure (usually between 150-200 feet). Access is usually from a common hall, although individual entrances can be provided. Dwelling units can be located on top of each other, and communities may opt to permit or prohibit the back-to-back type of units.

***DWELLING GROUPS.*** A group of 2 or more detached dwellings located on a parcel of land in 1 ownership and having any yard or court in common.

***DWELLING, HIGH-RISE.*** An apartment building of 8 or more stories.

***DWELLING, MANUFACTURED HOME.*** A factory-built single-family structure that is manufactured under the authority of 42 U.S.C. 5401, the National Manufactured Home Construction and

Safety Standards Act, is transportable in 1 or more sections, is built on a permanent chassis, and is to be used as a place for human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame. For the purpose of this chapter, a manufactured home shall be considered as a single-family detached dwelling.

***DWELLING, MID-RISE.*** An apartment building containing from 3 to 7 stories.

***DWELLING, MOBILE HOME.*** A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers. and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. Such units are distinguished from manufactured homes by the fact that they were built prior to enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. In many cases, mobile homes were built to a voluntary industry standard of the American National Standards Institute (ANSI-A119.1 Standards for Mobile Homes).

***DWELLING, MULTIPLE-FAMILY.*** A residential building designed for or occupied by 3 or more families, with the number of families in residence not exceeding the number of dwelling units provided.

***DWELLING, PATIO HOUSE.*** A 1-family dwelling on a separate lot with open space setbacks on 3 sides and with a court.

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**DWELLING, QUADRUPLEX.** Four attached dwellings in 1 structure in which each unit has 2 open space exposures and shares 1 or 2 walls with adjoining unit or units.

**DWELLING, ROOMING HOUSE (BOARDING HOUSE, LODGING HOUSE, DORMITORY).** A dwelling part thereof, other than a hotel, motel or restaurant where meals and/or lodging are provided for compensation, for 3 or more unrelated persons where no cooking or dining facilities are provided in the individual rooms.

**DWELLING, ROW.** A dwelling having a party wall on each side in common with an adjoining dwelling unless it is situated as the outermost dwelling; in the latter case, it will have a party wall on 1 side only. A row dwelling shall be considered to be a multiple-family dwelling.

**DWELLING, SEMI-DETACHED.** A 1-family dwelling attached to 1 other 1-family dwelling by a common vertical wall, and each dwelling located on a separate lot.

**DWELLING, SINGLE-FAMILY DETACHED.** A dwelling which is designed for and occupied by not more than 1 family and surrounded by open space or yards and which is not attached to any other dwelling by any means. See **DWELLING, DETACHED.**

**DWELLING, TOWNHOUSE.** A 1-family dwelling in a row of at least 3 such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by 1 or more common fire resistant walls.

**DWELLING, TRIPLEX.** A dwelling containing 3 dwelling units, each of which has direct access to the outside or to a common hall.

**DWELLING, TWO-FAMILY.** A structure on a single lot containing 2 dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**DWELLING UNIT.** One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis; physically separated from any other roofs or dwelling units which may be in the same

structure; and containing independent cooking and sleeping facilities.

**DWELLING UNIT, EFFICIENCY.** A dwelling unit consisting of not more than 1 habitable room together with kitchen or kitchenette and sanitary facilities.

**EARTH STATION or DISH ANTENNA.** Earth station shall mean a combination of antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and

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transfer signals; and a coaxial cable whose purpose is to carry the signals into the interior of the building.

(1) **EARTH STATION** (or **DISH ANTENNA HEIGHT**). This shall mean the height or the antenna or dish measured vertically from the highest point of the antenna or dish, when positioned for operation, to the bottom of the base which supports the antenna.

**EARTH TONES.** Muted shades of gray and muted shades and medium to dark tones of the following colors: burnt umber, raw umber, raw sienna, burnt sienna, Indian red, English red, yellow ocher, chrome green and terra verde.

**EASEMENT.** A grant of 1 or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

**EDUCATIONAL INSTITUTION.** Schools and/or seminaries administered by churches or religious organizations; schools, colleges or universities operated under charter or license from the state and any nonprofit institution, residence or home operated for the education of 5 or more students.

**EGRESS.** An exit.

**ELDERLY AND HANDICAPPED PERSONS.** Persons who are 62 years of age or over; families where either the husband or wife is 62 years of age or older; and handicapped persons under 62 if determined to have physical impairments which are expected to be of long continued and indefinite duration; substantially impede the ability to live independently, and; are of such a nature that the ability to live independently could be improved by more suitable housing conditions.

**ELECTRONIC, MECHANICAL OR VIDEO GAMES.** Any machine, apparatus, contrivance, appliance, or device which may be operated or played upon the placing or depositing therein of any coin, check, token, slug, ball, or any other article or device, or by paying therefore either in advance of or after use, involving in its use either skill or chance, including, but not limited to tape machine, card machine, pinball machine, bowling game machine, shuffleboard machine, marble game machine, horse racing machine, basketball game machine, baseball game machine, football game machine, electronic video game or electronic devices. Zoning provisions for such machines or facilities exclude those which are sample or demonstrator machines in a retail sales, rental, or service facility.

**ELEVATION.** A vertical distance above or below a fixed reference level; a flat scale drawing of the front, rear, or side of a building. (See **ARCHITECTURAL ELEVATION**)

**EMINENT DOMAIN.** The legal right of government to acquire or take private property for public use or public purpose upon paying just compensation to the owner. While originally used only when land was to be kept in public ownership, that is, for highways, public buildings,

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or parks, property has been condemned under eminent domain powers for private use in the public interest such as urban renewal. (See also inverse condemnation; police power; taking.)

**EMPLOYEE.** A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business, or any form of remuneration, tips of any kind or gratuities from the operator or customers of said business.

**ENCLOSED.** A covered space fully surrounded by walls, including windows, doors, and similar openings or architectural features, or an open space of less than 100 square feet surrounded by a building or walls exceeding 8 feet in height.

**ENVIRONMENTAL IMPACT STATEMENT (EIS).** A statement on the effect of development proposals and other major actions which significantly affect the environment.

**ESSENTIAL SERVICES.** The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface or overhead gas, electrical, system, fuel or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipe, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.

**ESTABLISHED.** Means and includes the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
- (3) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
- (4) The relocation of any such sexually oriented business.

**EXCLUSIONARY ZONING.** Zoning which has the effect of keeping out racial minorities, poor people, or in some cases, additional population of any kind. Techniques such as large-lot zoning or high floor area or minimum residential floor-area requirements which increase housing costs have been challenged for their potential exclusionary effects. Similarly, discretionary techniques have been subject to challenge: they may permit a community to deny certain applications and conceal the real reasons. Exclusionary zoning, in all its subtle variations, is considered by many the most effective and persuasive tool used by suburbs to maintain their homogenous character. A growing number of state court decisions are invalidating exclusionary



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practices, whether intentional or unintentional, and in some cases are requiring affirmative, inclusionary practices. On the other hand, discretionary techniques, such as inclusionary zoning, can be an important part of an inclusionary land-use program.

***EXISTING GRADE*** or ***ELEVATION***. The vertical location of the ground surface prior to excavating or filling.

***EXISTING USE***. The use of a lot or structure at the time of the enactment of a zoning ordinance.

***EXTENDED CARE FACILITY***. A long-term care facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged or a governmental medical institution. See ***LONG-TERM CARE FACILITY*** and ***NURSING HOME***.

***FABRICATION***. The stamping, cutting, assembling or otherwise shaping of processed materials into useful objects, excluding the refining or other initial processing of basic raw materials.

***FACADE***. The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

***FAMILY***. One or more persons related by blood, marriage, adoption, or guardianship, or not more than 5 persons not so related, occupying a dwelling unit and living as a single housekeeping unit.

***FACTORY-BUILT HOUSE***. See ***DWELLING, MANUFACTURED HOME***.

***FARM***. All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager or tenant farmer, by his hired employees provided, however, that land to be considered a farm hereunder shall include a continuous parcel of 5 acres or more in area; provided further, farms may be considered as nurseries, orchards, chicken hatcheries, poultry farms and apiaries, but establishments keeping or operating fur-bearing animals, riding or boarding stables, commercial dog kennels, stone quarries or gravel or sand pits shall not be considered a farm hereunder unless combined with bona fide farm operations on the same continuous tract of land of not less than 20 acres. No farms shall be operated as piggeries or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been maintained on the premises for at least a period of 1 year immediately prior thereto and for the use and consumption by persons residing on the premises.

***FAST FOOD RESTAURANT***. See ***RESTAURANT, FAST FOOD***.

***FEEDLOT***.

- (1) ***FEEDLOT***. Any premises used principally for the raising or keeping of

animals in a confined feeding area.

(2) **CONFINED FEEDING AREA.** Any livestock feeding, handling, or holding operation or feed yard where animals are concentrated in an area:

(a) Which is not normally used to pasture or for growing crops and in which animal wastes may accumulate; and

(b) Where the space per animal unit is less than 600 square feet.

(3) **FEEDLOT** is not intended to otherwise preclude the raising of animals as part of a general farming and/or livestock operation or as an FFA, 4-H, or other student project in an agricultural zone.

(4) **GENERAL FARMING AND/OR LIVESTOCK OPERATION.** One in which the confined feeding of animals is an incidental part of the total livestock operation.

**FINANCE, INSURANCE AND REAL ESTATE.** Establishments such as, but not limited to, banks and trust companies, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodity exchanges, insurance agents, brokers, lessors, lessees, buyers, sellers, agents and developers of real estate.

**FISCAL ZONING.** Designing zoning regulations for the purpose of attracting uses which will bring in more in local tax revenue than they will cost in public services. Since the greatest single cost of local government is education, sophisticated fiscal zoning would tend to limit single family housing in favor of small apartments generating few school children and the high tax ratables of business and industry. Because of such policies, competition for ratables may be heightened. In many instances, unsophisticated fiscal zoning has been based on the tax revenue side of the ledger, without regard to service costs. Here apartments would be discouraged and single-family housing promoted on grounds of the tax return per unit. This kind of 1-sided fiscal zoning is often used as an argument for exclusive zoning.

**FLOATING ZONE.** An unmapped zoning district where all the zone requirements are contained in the ordinance and the zone is fixed on the map only when an application for development, meeting the zone requirements, is approved.

**FLOOD.** A temporary rise in stream level that results in inundation of areas not ordinarily covered by water.

**FLOOD FRINGE AREA.** That portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus 25% of the regulatory base flood discharge. See **FLOODWAY, FLOOD.**

**FLOOD HAZARD AREA.** The floodplain consisting of the floodway and the flood

fringe area. See **FLOODPLAIN**.

**FLOOD HAZARD DESIGN ELEVATION.** The highest elevation, expressed in feet above sea level, of the level of floodwaters which delineates the flood fringe area.

**FLOOD INSURANCE RATE MAP.** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**FLOODPLAIN, REGIONAL.** The area inundated by the regional flood (100 Year Frequency Flood). This is the floodplain area which shall be regulated by the standards and criteria in this chapter.

**FLOODPROOFING.** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of buildings.

**FLOODWAY.** The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

**FLOOR AREA (GROSS).** The sum of the gross horizontal area of all the floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating 2 buildings. Floor area shall include the area of basements when used for residential, commercial, or industrial purposes, but shall not include a basement or portion of a basement used for storage or the housing of mechanical or central heating equipment. In calculating floor area, the following shall not be included:

- (1) Attic space providing structural headroom of less than 7 feet 6 inches.
- (2) Uncovered steps.
- (3) Terraces, breezeways and open porches.
- (4) Automobile parking space in a basement or private garage.
- (5) Accessory off-street loading berths, but not to exceed twice the space required by the provision of this chapter.

**FLOOR AREA (NET).** The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

**FLOOR AREA RATIO.** The floor area ratio of the building or other structure on any lot

is determined by dividing the gross floor area of such building or structure by the area of the lot on which the building or structure is located. When more than 1 building or structure is located on a lot, then the floor area ratio is determined by dividing the total floor area of all buildings or structures by the area of the lot. The floor area ratio requirements, where applicable, shall determine the maximum floor area allowable for buildings or other structures, in direct ratio to the gross area of the lot.

**FRATERNAL ORGANIZATION.** A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

**FRONT FOOT.** A measure of land width, being 1 foot along the front lot line of a property.

**FRONT LOT LINE.** See **LOT LINE, FRONT.**

**FRONT YARD.** See **YARD, FRONT.**

**FRONTAGE.** That portion of a lot, parcel, tract or block abutting upon a street. See **YARD, FRONT.**

**GARDEN APARTMENT.** See **DWELLING, MULTI-FAMILY.**

**GARDEN CENTER.** A place of business where retail and wholesale products and produce are sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools and utensils.

**GRADE.** The degree of rise or descent of a sloping surface.

**GRADE, FINISHED.** The final elevation of the ground surface after development.

**GREEN AREA.** Land shown on a development plan, comprehensive plan or official map for preservation, recreation, landscaping or parks.

**GREENBELT.** A strip of land parallel to and extending inwardly from the lot lines or right-of-way lines. Said greenbelt shall be maintained at all times in grass, trees, shrubs, or plantings and no structures, parking areas or signs shall be permitted.

**GREENHOUSE.** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. See **NURSERY.**

**GROSS FLOOR AREA.** See **FLOOR AREA, GROSS AND NET.**

**GROSS HABITABLE FLOOR AREA.** See **FLOOR AREA, NET.**

**GROUND COVER.** Grasses or other plants grown to keep soil from being blown or washed away.

**GROUND COVERAGE.** See **LOT COVERAGE.**

**GROUND SATELLITE STATION.** See **EARTH STATION.**

**HALFWAY HOUSE.** See **COMMUNITY ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES.**

**HEALTH CARE FACILITY.** A facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing homes, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, dispensary, home health care agency.

**HOME OCCUPATION.** Any occupation conducted in its entirety within a dwelling unit, provided that no person other than members of the family residing on the premises shall be engaged in such occupation and the use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to use for residential purpose by its occupants, provided that:

- (1) Said occupation does not require a state or local license and/or inspection.
- (2) It does not occupy more than 200 square feet of floor area within the dwelling unit and does not require alteration of the structure.
- (3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than 1 sign, not exceeding 2 square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- (4) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this chapter and shall not be located in a required front yard.
- (5) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment

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which causes fluctuations in line voltage off the premises.

**HOMEOWNERS ASSOCIATION.** A community association, other than a condominium association, which is organized in a development in which individual owners share common interests in open space or facilities.

**HOSPITAL, ANIMAL.** Any building or other enclosed structure containing space for any animals not belonging to the operator or such facility which allows for overnight or continuous care, diagnosis and treatment of animal illnesses or injuries.

**HOSPITAL, HUMAN.** Any building or other structure containing beds for at least 4 patients allowing for overnight or continuous care, diagnosis and treatment of ailments.

**HOUSING FOR THE ELDERLY AND HANDICAPPED.** A building or buildings containing dwellings and related facilities, such as dining, recreational services or therapy uses, where the occupying of the dwellings is restricted to elderly or handicapped persons as defined herein. Such use may include facilities for independent or semi-independent living, day care, personal care nursing facilities or services to the elderly of the community when it is an ancillary part of 1 of the above.

**INCLUSIONARY ZONING.** A positive and active policy and program of a community to attract racial minorities or low and moderate income residents. Such policies, analogous to affirmative action in job recruitment, go beyond the avoidance of techniques which discourage certain classes of people from moving into an area; they actively seek to invite such groups. Inclusionary zoning devices usually include offering incentives or bonuses to developers for building low to moderate cost housing or exception to traditional controls. Such practices are rare, but they are being experimented with in a number of places. While some courts have accepted the idea of inclusionary incentives, they have generally invalidated the techniques. Inclusionary policies are a response to the challenges being levied at exclusionary zoning.

**INDEPENDENT CONTRACTOR.** A person who contracts with a sexually oriented business establishment to provide services on behalf of the sexually oriented business to the patrons of such business whether or not the individual receives any remuneration, gratuity or tips of any kind, or pays the owner or operator for the right to perform or entertain in the sexually oriented business. The intention of this definition is to exclude those person who are not employees and who are not reasonably expected to have contact with customers or patrons of the sexually oriented business, including, but not limited to, persons on the premises of a sexually oriented business performing repair or maintenance services or delivering goods to the premises of a sexually oriented business.

**INGRESS.** Access or entry.

**INSTITUTIONAL USE.** A nonprofit or quasi- public use or institution such as a church, library, public, or private school, hospital, or municipally owned or operated building, structure

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or land used for public purpose.

**JUNK.** Old or scrap copper, brass, rope, rags, batteries, paper, rubber, junked, dismantled, or wrecked motor vehicles or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous materials which are not held for sale or remelting purposes by an establishment having facilities for processing such materials.

**JUNK YARD.** An establishment or place of business (other than an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes), which is maintained or operated for the purpose of storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed 90 days exclusively for storage, repair, or resale without alteration.

**KENNEL.** Any lot, building, structure, enclosure or premises whereupon or wherein are kept

5 or more dogs of 6 months of age or older for more than 5 days.

**LAND USE.** A description of how land is occupied or utilized.

**LAND USE PLAN.** The land use element of the Comprehensive Plan showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, education and other public and private purposes or combination of purposes.

**LEAPFROG DEVELOPMENT.** The development of relatively cheap land on the urban fringe by jumping over the more expensive land located immediately adjacent to existing development. Land located in the expected path of development, that is, with good access to transportation or utilities or next to existing build-up areas, tends to sell at a premium price. Developers often find that they can skip this expensive land and buy up other land, usually farms, at some distance, sometimes several miles out. While the houses may be cheaper, the result may be serious problems for both the new residents and the public. Not only may there be inadequate access to transportation and utilities, but other public services, shopping, and other support services may be lacking, and they may cost much more to provide. Urban limit lines, acreage zoning, and a variety of other growth management techniques may be imposed to prevent such development.

**LIVE ENTERTAINMENT.** Any entertainment, provided in eating and/or drinking places, other than music mechanically produced by juke boxes or other devices for the dissemination of recorded music. Not to include adult entertainment.

**LOADING SPACE.** An off-street space or berth on the same lot with a building or

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contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials; and which abuts upon a street, alley or other appropriate means of access.

**LODGE.** A building or group of buildings under single management, containing both rooms and dwelling units available for temporary rental to transient individuals or families; the place where members of a local chapter of an association hold their meetings; and the local chapter itself.

**LOT.** For purposes of this chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have the minimum required frontage on an improved public street, or on an approved private street, and may consist of a single parcel of land or a combination of parcels of land when the parcels of land are adjacent to 1 another and used as 1, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter. Each parcel of land shall be described by either metes and bounds on a document recorded at the county recorders office or a plat recorded at the county recorders office.

(1) **CORNER.** A lot abutting upon 2 or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of 135 degrees or less. See Figure I in Appendix A following this chapter.

(2) **DOUBLE FRONTAGE.** A lot having a frontage on 2 nonintersecting streets, as distinguished from a corner lot. See Figure I in Appendix A following this chapter.

(3) **FLAG.** A lot not fronting on or abutting a public right-of-way and where access to the public right-of-way is by a narrow, private strip of land. See Figure I in Appendix A following this chapter.

(4) **INTERIOR.** An interior lot is defined as a lot other than a corner lot with only 1 frontage on a street. See Figure I in Appendix A following this chapter.

(5) **ZONING.** A parcel of land not separated by street or alley that is designated by its owner or developer at the time of applying for a zoning certificate, as a tract all of which is to be used, developed, or built upon as a unit under single ownership. As long as it satisfied the above requirements, such lot may consist of:

- (a) A single lot of record;
- (b) A portion of a lot of record; or
- (c) A combination of complete lots and portions of lots of record, or portions of lots of record.



**LOT AREA.** The computed area contained within the lot lines.

**LOT AREA, NET.** Net lot area is the total horizontal net area within the lot lines of a lot or parcel exclusive of existing or proposed public streets, highways, roads and alleys, or proposed streets and highways as shown on the Circulation Plan, General Plan, or Community Plan.

**LOT COVERAGE.** That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

**LOT DEPTH.** The distance measured from the front lot line to the rear lot line. See Figure I in Appendix A following this chapter.

**LOT FRONTAGE.** The distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth. See Figure I in Appendix A following this chapter.

**LOT LINES.**

(1) **FRONT.** A street right-of-way line forming the boundary of a lot. On a corner lot, the street right-of-way lines with the least amount of street frontage shall be the front lot line. See Figure I in Appendix A following this chapter.

(2) **REAR.** That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, or triangular, shaped lot, a line 10 feet in length, entirely within the lot, parallel

to and at the maximum possible distance from, the front line shall be considered to be the rear lot line.

(3) **SIDE.** A lot line which is neither a front lot line nor a rear lot line. On a corner lot, the street right-of-way line with the greatest amount of street frontage shall be a side lot line. See Figure I in Appendix A following this chapter.

(4) **STREET.** In the case of a lot abutting only 1 street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating each lot from a street shall be considered to be the front lot lines, except where the rear yard requirement is greater than the front yard requirement in which case 1 of 2 opposing yards shall be a rear yard.

**LOT OF RECORD.** A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Miami County; or a parcel or tract of land, and the deed to which was of record as of the effective date of this Zoning Code.

**MANUFACTURED/MOBILE HOME PARK.** A parcel of land under single ownership on which 2 or more manufactured and/or mobile homes are located.

**MANUFACTURED/MOBILE HOME SUBDIVISION.** A subdivision designed and/or intended for the sale of lots for siting manufactured and/or mobile homes.

**MANUFACTURING.** Establishments engaged in the mechanical or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacturing of products, and the blending of materials such as lubricating oils, plastics, resins or liquors.

**MANUFACTURING, HEAVY.** Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character; require large site, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as noise, vibration, dust, glare, but not beyond the district boundary.

**MANUFACTURING, LIGHT.** Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor, or dust; operated and stored within enclosed structures; and generate little industrial traffic and no nuisances.

**MANUFACTURING, EXTRACTIVE.** Any mining, quarrying, excavating processing, storing, separating, cleaning, or marketing of any mineral natural resources.

**MAP BASE.** A map showing the important natural and man-made features of an area. Such maps are used to establish consistency when maps are used for various purposes, that is, reproductions of the same base map could be used to show natural resource limitations, public facilities, and land use and as the basis for the official zoning map. The scale and degree of detail shown on the base map depends on the size of the area.

**MARQUEE.** Any hood, canopy, awning of permanent construction which projects from a wall of a building, usually above an entrance.

**MASTER PLAN.** See **COMPREHENSIVE DEVELOPMENT PLAN.**

**MEDIAN.** A strip of land, centered in a roadway, that is used to separate vehicular traffic traveling in opposite directions.

**METES AND BOUNDS.** A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent feature. It is the most precise of the 3 most common forms of urban land description (the others are by street number of house and by blocks and lots in tract subdivision). It is used with

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precision where land values are high and, more loosely, in rural areas.

**MINI-WAREHOUSE.** A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

**MIXED USE DEVELOPMENT (MXD).** The development of a tract of land or building or structure with 2 or more different uses such as but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

**MODULAR HOUSING.** Factory-build housing certified as meeting the local/state building code as applicable to modular housing. Owner certified by the state, modular homes shall be subject to the same standards as site-built homes.

**MORATORIUM.** A temporary halting or severe restriction on specified development activities. Moratoriums on the issuance of building permits or on sewer hookups, for example, may be imposed to allow the community to build the necessary utilities to accommodate the new development. Interim zoning can be considered a form of moratorium which gives time for the zoning ordinance to be changed (or a new 1 prepared) to allow for changing conditions and needs. Moratoriums are increasingly common and are generally considered to be legal when not abused.

**MUNICIPALITY.** The City of Tipp City, Ohio.

**NATIONAL FLOOD INSURANCE PROGRAM.** A federal program which authorizes the sale of federally subsidized flood insurance in communities where such flood insurance is not available privately.

**NATIONAL HISTORIC PRESERVATION ACT.** A 1966 federal law that established a National Register of Historic Places, the Advisory Council on Historic Preservation and authorizing grants in aid for historic properties preservation.

**NATIONAL REGISTER OF HISTORIC PLACES.** The official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures and objects significant in the nation's history or whose artistic or architectural value is unique.

**NONCONFORMING LOT.** A lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the zoning code, but which fails by reasons of such adoption, revision or amendment to conform to the present requirements of the zoning district.

**NONCONFORMING SIGN.** Any sign lawfully existing on the effective date of an ordinance, or an amendment thereto, which renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

**NONCONFORMING STRUCTURE OR BUILDING.** A structure or building the size,

dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

***NONCONFORMING USE.*** A use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

***NON-ROUTINE MAINTENANCE.*** Activities necessary not more frequently than every 24 months to keep structures and equipment in good repair.

***NUDE, NUDITY OR STATE OF NUDITY.*** A live person exhibiting:

(1) The anus, male genitals, female genitals, or the areola or nipple of the female breast; or

(2) A state of dress which fails to opaquely and fully cover the anus, male or female genitals, pubic region or areola or nipple of the female breast.

***NUISANCE.*** Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses. There are many types of nuisances, and the law can be invoked to determine when, in fact, a nuisance exists and should be abated. Nuisance law forms part of the basis for zoning. The separation of uses through zoning, that is, industrial from residential, helps to foster the enjoyment of residential areas free from pollution, noise, congestion, and the other characteristics of industrial areas. Performance standards, which are better able to measure degree of nuisance, have been developed as a way of dealing with activities by the way they perform, rather than as classes.

***NURSING HOME, REST HOME OR CONVALESCENT HOME.*** A place, residence or home used for the boarding and care, for a consideration, of not less than 3 persons, not members of the immediate family operating such facilities, who by reason of age or infirmity are dependent upon the services of others.

***OCCUPANCY or OCCUPIED.*** The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in any public, commercial or industrial building.

***OCCUPANCY PERMIT.*** A required permit allowing occupancy of a building or structure after it has been determined that the building meets all the requirements of applicable ordinances.

***OFFICE, GENERAL.*** An office for the use of professional persons such as doctors, lawyers, accountants, and the like, or general business office such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real

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estate companies, and the like, but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

**ONE YEAR CAPTURE AREA.** The area around protected public water supply well fields delineated by the 1 year travel time contour.

**OPAQUE.** The term opaque shall mean completely screened from view through the use of a man-made screen and/or natural landscaping which serves to visually shield or obscure an abutting or nearby area from another.

**OPEN SPACE.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

**OPEN SPACE, COMMON.** Land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development and may include such complimentary structures and improvements as are necessary and appropriate.

**OPEN SPACE, GREEN.** An open space area not occupied by any structures or impervious surfaces.

**OPEN SPACE, RATIO.** Total area of open space divided by the total site area in which the open space is located.

**OUTBUILDING.** A separate accessory building or structure not physically connected to the principal building.

**OVERHANG.** The part of a roof or wall which extends beyond the facade of a lower hall; the portion of a vehicle extending beyond the wheel stops or curb.

**OWNER.** Any person who, alone or jointly or severally with others, shall have legal title to any land or structure, with or without accompanying actual possession thereof; or shall have charge, care or control of any land or structure as owner or agent of the owner; or an executor, administrator, conservator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provision of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

**PARCEL.** A lot or tract, or contiguous groups or portions of such lots and/or tracts shown on the assessor's roll of Miami County, or contiguous area of land under legal control of any 1 person, partnership, firm corporation, syndicate, agency or institution. See also **LOT** and **TRACT**.

**PARKING SPACE, OFF-STREET.** An area of definite length and width; said area shall be exclusive of drives, aisles or entrances giving access thereto and shall be fully accessible for

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the storage or parking of permitted vehicles. Such area shall be located totally outside of any street or alley right-of-way.

***PARKING SPACE, PUBLIC.*** An off-street parking area publicly or privately owned available for public use whether free, for compensation or as an accommodation for clients or customers.

***PAVED SURFACE.*** A hard, smooth surface made principally of asphaltic concrete, portland cement, or brick that will bear travel.

***PERFORMANCE BOND or SURETY BOND.*** An agreement by a subdivider or developer with the city for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreements.

***PERFORMANCE STANDARDS.*** A minimum requirement or maximum allowable limit on the effects or characteristics of a use, usually written in the form of regulatory language. A building code, for example, might specify a performance standard referring to the fire resistance of a wall, rather than specifying its construction materials. Performance standards in zoning might describe allowable uses with respect to smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and so on, instead of the more traditional classifications of light or heavy lists of uses. It is a more precise way of defining compatibility and at the same time is intended to expand developer's options. The performance standards have been in the area of industrial emissions. (Local requirements in many fields, especially pollution control, have now been superseded by federal or state regulations.) Because such measures require technical skill and often some expensive equipment, small communities have tended to prefer the more traditional specification standard approach. In such places, clear statements of purpose or intent often are substituted for precise measurable standards.

***PERIMETER.*** The boundaries or borders of a lot, tract, or parcel of land.

***PERMIT.*** Written governmental permission issued by an authorized official, empowering the holder thereof to do an act not forbidden by law, but not allowed without such authorization.

***PERMITTED USE.*** A use by right which is specifically authorized in a particular zoning district. It is contrasted with special uses which are authorized only if certain requirements are met and after review and approval by the Planning Board.

***PERSON.*** A corporation, company, association, society, firm, partnership or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof.

***PERSONAL SERVICES.*** A use providing services of a personal convenience nature,

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cleaning, repair, or sales incidental thereto, and including art, dance, or music studios, beauty and barber shops, shoe repair, self-service laundry and cleaning service, laundry and cleaning service, laundry and cleaning pick-up stations (where bulk cleaning and servicing is done elsewhere), repair and fitting of clothes and personal accessories, copying, and similar services.

**PLANNING.** The decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and controls enacted to achieve the goals and objectives to which they relate.

### **PLANNED UNIT DEVELOPMENT (PUD).**

- (1) Land under unified control, planned and developed as a whole;
- (2) In a single development operation or a definitely programmed series of development operations including all lands and buildings;
- (3) According to comprehensive and detailed plans which include only streets, utilities, lots, or building sites and the like, but also site plans and design principles for all buildings as intended to be located, constructed, used, and related to each other; and detailed plans for other uses and improvements on the land as related to buildings; and
- (4) With a program of provision, operation, and maintenance of such areas, improvements and facilities necessary for common use by some or all of the occupants of the development, but which will not be provided, operated, or maintained at general public expense. While PUD has most commonly been used for housing development, it also is frequently applied to other forms of development such as shopping centers, industrial and office parks, and to mixed-use developments. Planned unit development allows the unified, and hence potentially more desirable and attractive development of an area, based on a comprehensive site plan. PUD can have a number of advantages over conventional lot-by-lot development including: mixing building types and uses to create more heterogeneous and alive communities; combining often unusable yard space on individual lots into larger common open spaces; offering greater opportunities for incentives to building lower cost housing; lower street and utility costs resulting from reduced frontage; and the possibility of increasing the density of a development while keeping desired amenities.

**PLANNING BOARD.** The Planning Board of Tipp City, Ohio.

**PLAT.** A map, generally, or a subdivision, showing the location, boundaries, and ownership of individual properties. A plat may simply be the device for officially recording ownership changes or lot division; in communities which have subdivision regulations, submission and approval of a plat is a prerequisite to building. Approval of a preliminary plat, usually by the Planning Board, involves a determination that the subdivision conforms to the regulations and to the lot-size requirements of the zoning code. To plat means to subdivide; where subdivision regulations are in effect this in turn may mean to obtain the necessary

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approvals without necessarily intending to improve or build, or, where they are not, to record. Property is frequently platted as a speculative venture; platted, but undeveloped property, may require public purchase or other action to bring it up to current regulatory standards.

***POLICE POWER.*** The authority of government to exercise controls to protect the public's health, safety, morals, and general welfare. As distinct from eminent domain powers, in which government takes property, no compensation need be paid for the imposition of police power controls. The degree to which such exercise becomes, in effect, a taking of property, is a question of long standing and has arisen again lately in connection with the restrictive growth management controls being imposed by some communities.

***POLICY PLAN.*** A plan adopted by the City Council to serve as a guide for public decision-making in regards to future development by establishing goals, objectives, and policies for the city.

***POTABLE WATER.*** Water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.

***PREAPPLICATION CONFERENCE.*** Discussion held between developers and public officials, usually members of the Planning Board before formal submission of an application for a permit or for subdivision plat approval. This meeting allows the staff to: acquaint the applicant with the comprehensive area or precise plans that apply to this tract, as well as the zoning and other codes that affect the proposed development; suggest improvements to the proposed design on the basis of a review of the sketch plan; advise the applicant on ways to reduce unnecessary costs and encourage the applicant to get financial advice early; encourage the applicant to consult appropriate authorities on the character and placement of public utility services; help the applicant to understand the steps to be taken to receive approval; and give the applicant a reading on the likelihood of acceptance of these plans based on appropriate laws and ordinances.

***PRELIMINARY APPROVAL.*** The conferral of certain rights, prior to final approval, after specific elements of a development or site plan have been approved by the proper reviewing authority and agreed to by the applicant.

***PREMISES.*** A lot, parcel, tract or plot of land together with the buildings and structures therein.

***PRINCIPAL USE.*** The primary or predominant use of any lot.

***PRIVATE EDUCATIONAL FACILITY.*** A privately owned school, including schools owned and operated by religious organizations, offering instruction in the several branches of learning and study required to be taught in the public schools by the state.

***PRIVATE CLUB.*** See ***CLUB.***



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***PRIVATE STREET.*** A street that is not dedicated to the city.

***PROTECTED PUBLIC WATER SUPPLY.*** A public water system which services at least 15 service connections used by year-round residents or regularly serves at least 25 year round residents, and having a 1 year capture area defined through appropriate hydrologic studies.

***PUBLIC HEARING.*** A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

***PUBLIC IMPROVEMENT.*** Any improvement, facility or service together with its associated public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy or similar essential services.

***PUBLIC NOTICE.*** The advertisement of a public hearing in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.

***PUBLIC PARK.*** Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of any governmental entity.

***PUBLIC SEWER AND WATER SYSTEM.*** Any system other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of wastes and the furnishing of potable water.

***PUBLIC UTILITY.*** A closely regulated private enterprise with an exclusive franchise for providing a public service.

***PUBLIC UTILITY FACILITY.*** Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures, sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility.

***PUBLIC WAY.*** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, tunnel, viaduct, walk, bicycle path; or other ways on which the general public or a public entity have a right, or which are dedicated, whether improved or not.

***PUD.*** See ***PLANNED UNIT DEVELOPMENT.***

***QUASI-PUBLIC USE.*** Churches, Sunday schools, parochial schools, colleges,

hospitals, and other facilities of an educational, charitable, philanthropic or nonprofit nature.

**REAR YARD.** See **YARD, REAR.**

**REASONABLE USE DOCTRINE.** A common law principle that no one has the right to use his or her property in a way which deprives others of the lawful enjoyment of their property.

**RECHARGE LAGOON.** A body of water designed and maintained by man to add water to the groundwater at a rate greater than that occurring naturally.

**RECREATION, ACTIVE.** Leisure time activities, usually of a more formal nature and performed with others, often requiring equipment and taking place at prescribed places, sites or fields.

**RECREATION FACILITY.** A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.

**RECREATIONAL FACILITY, COMMERCIAL.** A recreation facility operated as a business and open to the public for a fee.

**RECREATIONAL FACILITY, PRIVATE.** A recreation facility operated by a nonprofit organization, and open only to bona fide members and guests of such nonprofit organization.

**RECREATIONAL FACILITY, PUBLIC.** A recreation facility operated by a governmental agency and open to the general public.

**RECREATIONAL VEHICLE.** A vehicle towed or self-propelled on its own chassis or attached to the chassis or another vehicle and designed or used for temporary dwelling, recreational or sporting purposes. The term **RECREATIONAL VEHICLE** shall include, but shall not be limited to, travel trailers, pick-up campers, camping trailers, motor coach homes, converted trucks and buses, and boats and boat trailers. Such vehicles shall have a body width and body length of no more than the allowable length and width in accordance with the Ohio Revised Code when factory equipped for the road.

**RECREATIONAL VEHICLE PARK.** An area of land on which 2 or more travel trailers, campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure, fixture or equipment that is used or intended to be used in connection with providing such accommodations.

**RECYCLING CENTER.** A facility which is not a junkyard and in which recoverable resources, such as newspapers, glassware and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand or within a completely enclosed building.

**RECYCLING COLLECTION POINT.** An incidental use which serves as a neighborhood drop-

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off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public-quasi- public areas such as churches or schools.

**RECYCLING PLANT.** A facility which is not a junkyard and in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans, and other products are recycled, reprocessed and treated to return such products to a condition in which they may again be used for production.

**REGULATED SUBSTANCES.** Chemicals and mixtures of chemicals which are health hazards, except that materials packaged for personal or household use as food or drink for man or other animals are not regulated substances. Regulated substances include:

(1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.

(2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.

(3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises 1% or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is 1/10 of 1% or greater of the composition on a weight per unit weight basis.

(4) Ingredients of mixtures prepared within the Well Field Protection Overlay District in cases where such ingredients are health hazards but comprise less than 1/10 of 1% of the mixture on a weight per unit weight basis if carcinogenic, or less than 1% of the mixture on a weight per unit weight basis if non-carcinogenic.

(5) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids).

**RESIDENTIAL DENSITY.** The number of dwelling units per acre of residential land.

**RESIDENTIAL DISTRICT OR USE.** Any zoning district set forth in this Chapter 154, the Tipp City Ohio Zoning Code that contains the words “residential” in its title, and the “Planned Residential District” as set forth in § 154.056(I) of the Tipp City Ohio Zoning Code.

**RESTAURANT.** An establishment where food and drink is prepared, served and consumed primarily within the principal building. See **RESTAURANT, CARRY-OUT**;

***RESTAURANT, DRIVE-IN; RESTAURANT, FAST-FOOD; RESTAURANT, STANDARD.***

***RESTAURANT, DRIVE-IN.*** An establishment offering food and beverages which are sold within the building, or to persons while in motor vehicles in an area designated for drive-in service, and may be consumed on or off the premises.

***RESTAURANT, FAST-FOOD.*** An establishment where principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building, within a motor-vehicle parked on the premises, or off the premises as carry-out orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.

***RESTAURANT, STANDARD.*** An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state, and whose principal method of operation includes 1 or both of the following characteristics: customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; a cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

***RESTRICTIVE COVENANT.*** A restriction on the use of land usually set forth in the deed.

***RETAIL.*** Sale to the ultimate consumer for direct consumption and/or use and not for resale.

***RETAIL SERVICES.*** Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion picture, amusement and recreation services, health, educational and social services, museums and galleries.

***REZONING.*** An amendment to or a change in the zoning code. Rezoning can take 3 forms: a comprehensive revision or modification of the zoning text and map; a text change in zone requirements; and a change in the map, that is, the zoning designation of a particular parcel or parcels. The last, so-called small-parcel rezoning, has often been used to add flexibility to the zoning process, usually unintentionally. (One form of text change, the importance of which may be unrecognized, is a change in a definition. For example, changing the definition of townhouses to include them under multi-family or single-family dwellings may significantly affect where and how they are permitted.) Rezonings, like enactment of the original ordinance, are legislative acts that, except under rare and specifically defined circumstances, cannot be delegated to administrative officials.

***RIGHT-OF-WAY.*** A strip of land taken or dedicated for use as a public way, in addition to the roadway. It normally incorporates the curbs, lawn strips, sidewalks, lighting, and drainage

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facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

***RIGHT-OF-WAY LINES.*** The lines that form the boundaries of a right-of-way.

***RINGELMANN CHART.*** A device used to measure the opacity of smoke emitted from stacks and other sources.

***ROOF, GABLE.*** A ridge roof forming a gable at both ends of the buildings.

***ROOF, GAMBREL.*** A gabled roof with two slopes on each side, the lower steeper than the upper.

***ROOF, HIP.*** A roof with sloping ends and sides.

***ROOF, MANSARD.*** A roof with 2 slopes on each of 4 sides, the lower steeper than the upper.

***ROOF, SHED.*** A roof with 1 slope.

***ROOM, HABITABLE.*** A room occupied or designed to be occupied by 1 or more persons for living, sleeping, eating or cooking, including kitchens serving a dwelling unit; but not including bathrooms, toilet compartments, laundries, pantries, cellars, attics for storage and other similar spaces.

***ROOMING HOUSE.*** See ***BOARDING HOUSE.***

***ROW HOUSE.*** See ***DWELLING, ROW.***

***RUN WITH THE LAND.*** A covenant or restriction to the use of land contained in a deed and binding on the present and all future owners of the property.

***SALVAGE.*** The utilization of waste materials.

***SCHOOL.*** The use of a premises for the frequent instruction, education, or part-time care of 5 or more persons simultaneously. The number 5 shall not include any member of a family residing on the premises.

(1) ***FREQUENT.*** School sessions occurring more than 5 times during any 30 day period.

(2) ***PART-TIME CARE.*** The part-time care of children 12 years of age or younger who do not reside on the premises.

***SCHOOL: COLLEGE, UNIVERSITY OR SEMINARY.*** Public or other non-for-profit schools conducting regular academic instruction at the college level, including graduate schools, universities, community and junior colleges, colleges, nonprofit research institutions, seminaries,

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and religious institutions, and including related instructional and recreational uses with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees. Such schools must either:

- (a) Offer general academic instruction equivalent to the standards prescribed by the State of Ohio, Board of Education;
- (b) Confer degrees as college or university, junior college or community college with undergraduate or graduate standing;
- (c) Conduct research; or
- (d) Give religious instruction.

This definition does not include schools, academies or institutions, incorporated or otherwise, which operate for profit, nor does it include commercial, trade or business schools.

***SCHOOL: COMPULSORY (GRADES 1-12).*** A public or private, for-profit or not-for-profit school whose primary use is to conduct regular academic instruction and/or special substitute educational programs which are certified by the State Board of Education as meeting the minimum educational requirements of the Ohio Revised Code for compulsory-age children attending the school. As a secondary use, the school may conduct optional community programs and activities involving persons of any age, such as but not limited to child day care, pre-kindergarten, evening classes, summer programs, recreational and cultural programs, and special events. The Ohio Revised Code requires the education of all children of compulsory-age (6-18 years of age).

***SCHOOL: NURSERY, KINDERGARTEN, DAY CARE.*** A school providing general daytime care and/or instruction for children 12 years of age or younger which conducts no instructional programs certified by the State Board of Education as meeting the minimum educational requirements of the Ohio Revised Code for compulsory-age children (ages 6-18 years). Hours of operation shall be limited to the daytime hours between 6:00 a.m. and 9:00 p.m.

***SCHOOL: TRADE, BUSINESS OR OTHER.*** A school operated for profit which teaches business, professional or technical trades or skills, or a school not otherwise included within the provisions of this chapter.

***SCHOOL, VOCATIONAL.*** A school offering training and instruction in vocations including, but not limited to, medical, dental, and animal health technicians, barbers, and beauty operators.

***SCREENING.*** A physical barrier of living or nonliving material that separates and/or obscures vision from a higher intensity land use to a residential use.

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***SERVICE CLUBS.*** An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or-service of alcoholic beverages is in compliance with all applicable federal, state, county and local laws.

***SERVICE STATION.*** See ***AUTOMOBILE SERVICE STATION.***

***SERVICES.*** Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations; including hotels and other lodging places; establishments providing personal, business, repair and amusement services; health, legal, engineering, and other professional services; educational institutions; membership organizations, and other miscellaneous services. See ***BUSINESS SERVICES; PERSONAL SERVICES; RETAIL SERVICES.***

***SETBACK LINE.*** That line which is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. See ***BUILDING LINE.***

***SEWERS, CENTRAL OR GROUP.*** An approved sewage disposal system which provides a collection network and disposal system and central sewage treatment facility for a single development, community, or region.

***SEWERS, ON-SITE.*** A septic tank or similar installation on an individual lot which utilizes an aerobic bacteriological process and equally satisfactory process for the elimination of the sewage, and provides for the proper and safe disposal of the effluent, subject to the approval of health and sanitation officials having jurisdiction.

***SEXUALLY ORIENTED BUSINESSES.*** Those businesses defined as follows:

(1) ***ADULT ARCADE.*** A commercial business or operation where, for any form of consideration, 1 or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, or other visual representations, for viewing by 5 or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) ***ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE.*** A commercial business or operation which has as a significant or substantial (i.e., 50%

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or more) portion of its stock-in-trade or derives a significant or substantial (i.e., 50% or more) portion of revenues or devotes a significant or substantial (i.e., 50% or more) portion of its interior business or advertising to the sale or rental for any form of consideration, of any 1 or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital video discs, or other visual representations which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas”;

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others. A commercial business or operation may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing “specified sexual activities” or “specified anatomical areas,” and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as the definition above is met.

(3) **ADULT CABARET.** A nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial business or operation, whether or not alcoholic beverages are served, where; (a) persons appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances take place which are characterized by the exposure of “specified anatomical areas” or by “specified sexual activities”; or (c) films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions shown or displayed are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.” References above to nudity should not be constructed or interpreted to permit nudity or a state of nudity in an **ADULT CABARET. PRIVATE CLUB** shall mean an establishment where patrons may bring in their own bottle or other container of alcohol (including beer, wine or liquor) and purchase a mixture for the same or use of a glass from the club or business.

(4) **ADULT MOTEL.** A motel, hotel or similar commercial business or operation which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

(5) **ADULT MOTION PICTURE THEATER.** A commercial business or operation where films, motion pictures, video cassettes, digital video discs, slides or similar



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photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” are shown for any form of consideration.

(6) **ADULT THEATER.** A theater, concert hall, auditorium, or similar business or operation where, for any form of consideration, persons appear in a state of nudity or semi-nudity or live performances take place which are characterized by exposure of “specified anatomical areas” or by “specified sexual activities,” which business or commercial operation is not customarily open to the general public during such appearances or performances because it excludes minors by reason of age.

(7) **ESCORT AGENCY.** A person or business association which furnishes, offers to furnish, or advertises to furnish escorts as 1 of its primary business purposes for a fee, tip, or other consideration. “Escort” means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or to privately appear in the state of nudity or semi-nudity for another person.

(8) **MASSAGE PARLOR.** Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with “specified sexual activities” is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her “specified anatomical areas.” The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the State of Ohio to perform massages.

(9) **SEMI-NUDE MODEL STUDIO.** Any place where a person regularly appears in a state of nudity or semi-nudity or displays “specified anatomical areas” for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Reference above to nudity should not be construed or interpreted to permit nudity or a state of nudity in a “Semi-Nude Model Studio.”

(10) **SEXUAL ENCOUNTER CENTER.** A commercial business or operation, that as 1 of its principal business purposes, offers for any form of consideration: (i) a place where 2 or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or the exposure of “specified anatomical areas”; or (ii) activities between male and female persons and/or persons of the same sex when 1 or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional

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person licensed by the State of Ohio engages in medically approved and recognized sexual therapy. Reference above to nudity should not be construed or interpreted to permit nudity or a state of nudity in a ***SEXUAL ENCOUNTER CENTER***.

***SHARED HOUSING.*** A housing arrangement for more than 3 independent elderly persons who pool their resources to maintain a single housekeeping unit.

***SHOPPING CENTER.*** A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

***COMMENT: SHOPPING CENTERS*** are further defined by size and the area their shoppers come from: a Super Regional center includes retail, office, and service uses, occupies over 100 acres, has 4 or more anchor stores and contains over 1,000,000 square feet of gross leasable space; a Regional shopping center contains a wide range of retail and service establishments, occupies 50 to 100 acres of land, has at least 1 or more anchor stores and contains over 400,000 square feet of gross leasable space. It draws its clientele from as much as a 45 minute drive away; Community shopping centers will feature a junior department store with approximately 150,000 square feet of gross leasable area, and have a site area of 10 to 25 acres. Its clientele will come a radius of a 10 minute drive from the center; Neighborhood shopping centers generally sell goods necessary to meet daily needs, occupies up to 10 acres, has up to 100,000 square feet of gross leasable area, and draws its clientele from a 5 minute radius from the center.

***SIDE YARD.*** See ***YARD, SIDE.***

***SIGHT TRIANGLE.*** A triangular shaped portion of land established at street intersections in which nothing is erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

***SIMULATED.*** To assume the mere appearance of something, without the reality; to imitate or pretend.

***SINGLE-FAMILY DWELLING.*** See ***DWELLING, SINGLE-FAMILY.***

***SITE.*** A plot of land intended or suitable for development; also the ground or area on which a building or town has been built. See also ***PARCEL; PLOT; SITE PLAN.***

***SITE PLAN.*** A site or development plan shall refer to a set of to-scale drawings and associated text containing the following elements of information regarding the proposed and/or existing use(s) for a premises.

(1) ***USE.*** A statement of the general nature of the proposed and/or existing

use(s) on a premises.

(2) **STRUCTURES.** The location, size, and height of all structures on the property (including buildings, signs, walls, fences, waste collection facilities, and works of art).

(3) **SETBACKS AND YARDS.** The location, size, and dimensions of all yards, setbacks, and spaces between structures.

(4) **ARCHITECTURAL ELEVATIONS.** The exterior architectural elevations of all structures proposed and/or existing on the site showing the general design, architectural features, color, and building materials. The architectural elevations of structures immediately adjacent to the applicant's property may be required.

(5) **PAVING.** The location, dimensions and methods of improvement of all driveways, parking areas, walkways, and other means of access, ingress, and egress.

(6) **PARKING AND LOADING.** The location, dimensions, and layout of all areas to be used for parking or loading.

(7) **SCREENING.** The location, height, and materials for all required screening.

(8) **LIGHTING.** The location, design, intensity, color, and beam spread of all exterior lighting.

(9) **SIGNS.** The location, size, and architectural elevations of all signs.

(10) **STORM WATER DRAINAGE.** The design of the storm water drainage system for the property.

(11) **OTHER RELEVANT INFORMATION.** Any additional relevant information requested by the city.

**SKETCH (CONCEPT; OUTLINE) PLAN OR PLAT.** A generalized map that is prepared by a developer, usually before the preapplication conference, to let the developer/subdivider save time and expense in reaching agreement with the Planning Board as to the form of the plan and the purposes of the regulation. Its purpose is simply to serve as a basis for discussion without either side making commitments.

**SOIL EROSION AND SEDIMENT.** A plan that indicates necessary land treatment measures, including a schedule for installation, which will effectively minimize soil erosion and sedimentation.

**SPECIAL USE.** See *USE, SPECIAL*.

***SPECIFIED ANATOMICAL AREAS.*** Includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, anus or areolas or nipples of female breasts; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

***SPECIFIED SEXUAL ACTIVITIES.*** Means and includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence;
- (5) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (1) through (4) of this definition.

***SPOT ZONING.*** Zoning a relatively small area differently from the zoning of the surrounding area, usually for an incompatible use and to favor the owner of a particular piece or pieces of property. Spot zoning is invalidated by the courts when it violates in accordance with a Comprehensive Plan is in the arbitrary and inappropriate nature of the change rather than, as is commonly believed, in the size of the area. Spot zoning often is a reason why many flexible techniques such as floating zones or conditional rezoning have been prohibited, the argument being that conferring narrow development permission is a form of spot zoning. Special small-area zoning districts, however, have been upheld where the Comprehensive Plan demonstrates a special need, such as for an historic area or to preserve a sensitive natural area. Spot zoning, in sum, can be legal or illegal, but laymen generally think that it always is illegal and use the term loosely, and pejoratively, at public hearings when they oppose the change.

***STABLE, COMMERCIAL.*** A building or land where a horse, a pony, a mule, a donkey, or other riding animal is kept for remuneration, hire, sale, boarding, riding, or show.

***STABLE, PRIVATE.*** Any building, incidental to an existing residential principal use, that shelters a horse, a pony, a mule, a donkey, or other riding animal used for the exclusive use of the occupants of the premises.

***STACKING.*** The area of a parking lot used for the temporary storage of vehicles at ingress and egress points of a premises or drive-thru aisles for uses such as drive-thru banking, fast food restaurants, and convenience stores.

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**STANDARDS.** While often used loosely to refer to all requirements in a zoning ordinance, the term

usually is used to mean site design regulations such as lot area, height limits, frontage, landscaping, yards, and floor area ratio - as distinguished from use restrictions.

**STATEMENT OF INTENT (STATEMENT OF PURPOSE).** A statement of policy or objectives, often incorporated in a zoning ordinance, which outlines the broad purpose of the ordinance and its relationship to the Comprehensive Plan; frequently, a statement preceding regulations for individual districts, which helps to characterize the districts, and their legislative purpose. When the application of particular district requirements is challenged in court, the courts rely on the intent statement in deciding whether the application is reasonable and related to a defensible public purpose. As zoning ordinances become more complex, with numerous special districts and flexible applications, statements of intent, which guide users, administrative officials, and the courts, are making more frequent appearances.

**STEEP SLOPES.** Land area where the inclination of the land's surface from the horizontal is 12% or greater. Slope is determined from on-site topographic surveys prepared with a 2 foot contour interval.

**STRIP ZONING.** A zone normally consisting of a ribbon of uses fronting both sides of an arterial roadway and extending inward for half a block. Strip commercial development is the most common form and occurs naturally everywhere. In suburban areas or along well-traveled roads, is usually characterized by an assortment of gas stations, drive-in and fast food restaurants, motels, tourist shops, and some automobile sales and service operations. In fringe areas, such uses may be interspersed with a few farms and farm service outlets like feed distributors and large equipment sales; unlimited highway access to such uses severely reduces road carrying capacity. And in other cities, strips of convenience stores and other retail stores are found scattered within residential neighborhoods. Strip zoning is a recognition that since such development will not go away, its most irksome characteristics should be controlled. These include access, use limitations, parking, signs, some development standards, and occasionally, though seldom successfully, clustering requirements and aesthetic controls.

**STORY.** That part of a building, except a mezzanine, included between the surface of 1 floor and the surface of the next floor, or if there is not a floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50%, by cubic content, is below the height level of the adjoining ground.

**STORY, HALF.** An uppermost story lying under a sloping roof, the usable floor area of which, at a height of 4 feet above the floor does not exceed 2/3 of the floor area in the story directly below, and the height above at least 200 square feet of floor space is 7 feet, 6 inches.

**STRUCTURAL ALTERATION.** Any change in the supporting members of a building,

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such as the bearing walls, beams, or girders, or any change in the dimension or configuration of the roof or exterior walls.

**STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and billboards.

**STUDIO.** A building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for radio or television broadcasting.

**STUDIO APARTMENT.** See **DWELLING UNIT, EFFICIENCY.**

**STUDIO, COMMERCIAL.** A commercial operation which includes the sale of, and may include the instruction in, arts and crafts, dance, music, and instruments, commercial photography, and other similar commercially oriented operations.

**STUDIO, INSTRUCTIONAL.** An operation involving fine arts and crafts, oriented primarily to instruction, such as the studio of an artist, sculptor, ceramics teacher, or other similar person teaching arts and crafts, not including dance or music lessons.

### **SUBDIVISION.**

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax role, into 2 or more parcels, sites, or lots any 1 of which is less than 5 acres for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than 5 acres not involving any new streets or easements of access and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

(2) The improvement of 1 or more parcels of land for residential, commercial or industrial structures of groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets except private streets serving industrial structures; the division or allocation of land as open space for common use by owners, occupants, or lease holders, or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities. See **SUBDIVISION, MINOR.**

**SUBDIVISION, MINOR.** A division of a parcel of land that has the following characteristics:

- (1) Land is located along an existing public road.
- (2) No opening, widening, or extension of any road is involved.
- (3) No more than 5 lots (after the original tract is completely subdivided) are involved.

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(4) The request for division is not contrary to platting, subdividing, or zoning regulations.

**SUPPLY YARDS.** A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

**SURVEYOR.** Any person registered to practice surveying.

**SWALE.** A depression in the ground which channels run-off.

**SWIMMING POOL.** A structure constructed or placed below ground or above ground, which contains water in excess of 24 inches in depth and is suitable or utilized for swimming or wading.

(1) **PRIVATE.** Exclusively used without paying an additional charge for admission by the residents and guests of a single household, a multi-family development, or a community, the members and guests of a club, or the patrons of a motel or hotel; an accessory use.

(2) **COMMUNITY.** Operated by Tipp City.

**TAKING.** To take, expropriate, acquire, or seize property without compensation. *See EMINENT DOMAIN.*

**TANK FARM.** An open air facility containing a number of above-ground, large containers for the bulk storage of material in liquid, powder or pellet form.

**TAVERN.** An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

**TEMPORARY STRUCTURE.** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**TEMPORARY USE.** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**TERMINAL.**

(1) A place where transfer between modes of transportation take place;

(2) A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by the same or other forms of transportation.

**TOPOGRAPHY.** The configuration of a surface area showing relative elevations.

**THOROUGHFARE, STREET OR ROAD.** The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

(1) **ARTERIAL, PRINCIPAL.** The principal arterial system involves major thoroughfares serving the major activity centers of the metro area. Principal arterials carry a high proportion of the total urban area travel on a minimum of mileage.

(2) **ARTERIAL, MINOR.** The minor arterial system involves major thoroughfares of a lesser scale than principal arterials. Such facilities may carry local bus routes and provide intra- community continuity but usually do not penetrate identifiable neighborhoods.

(3) **COLLECTOR STREET.** A major collector typically contains 70 feet of right-of-way while a minor collector generally contains 60 feet of right-of-way. Both primarily carry traffic from local streets to arterial streets, including the principal entrance and circulation routes within residential subdivisions.

(4) **CUL-DE-SAC.** A local street of relatively short length with 1 end open to traffic and the other end terminating in a vehicular turnaround.

(5) **DEAD-END STREET.** A street temporarily having only 1 outlet for vehicular traffic and intended to be extended or continued in the future.

(6) **LOCAL STREET.** The local street system comprises all facilities not on 1 of the higher systems. It serves primarily to provide direct access to abutting land and access to the high order systems. Service to through traffic movement usually is deliberately discouraged.

(7) **LOOP STREET.** A type of local street, each end of which terminates at an intersection with the same arterial or collector street, and whose principal radius points of the 180 degree system of turns are not more than 1,000 feet from said arterial or collector street, nor normally more than 600 feet from each other.

(8) **MARGINAL ACCESS STREET.** A local or collector street, parallel and adjacent to an arterial or collector street, providing access to abutting properties and protection from arterial or collector streets (also called frontage street).

**TOWNHOUSE.** See **DWELLING, TOWNHOUSE.**

**TRACT.** An area, parcel, site, piece of land, or property which is the subject of a development application.

**TRAILER.** A structure standing on wheels, towed or hauled by another vehicle and used for short- term human occupancy, carrying materials, goods or objects, or as a temporary office.

**TRAILER COURT.** See **MOBILE HOME PARK.**



**TRANSFER OF DEVELOPMENT RIGHTS (TDR).** The removal of the right to develop or build, expressed in dwelling units per acre, from land in 1 zoning district to land in another district where such transfer is permitted.

**TRANSITION ZONE.** A zoning district permitting transitional uses.

**TRANSITIONAL LOT.** A specified lot, or lots, adjoining a specified lot, or lots, in another district. The transitional identification is used when special transitional regulations are applied to deal with possible conflicts of uses at district boundaries. Transitional yard requirements may be imposed at these locations to act as a sort of buffer zone.

**TRASH CONTAINERS.**

(1) **CAN-TYPE TRASH AND REFUSE RECEPTACLES.** That type of refuse container not exceeding 40 gallon capacity which can be manually lifted and dumped.

(2) **METAL DUMPSTER.** That type of trash and refuse containers which exceed 40 gallon capacity, and are self-dumping by means of a specially designed front, side or rear loading vehicle.

**TRAVEL TIME CONTOUR.** A locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.

**TRUCK CAMPER.** A structure designed to fit into the bed of a pick-up truck and used for temporary shelter and sleeping.

**TRUCK STOP.** Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities solely for the use of truck crews.

**TRUCK TERMINAL.** Premises which are used for loading or unloading of trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of 2 or more trucks.

**TWO-FAMILY DWELLING OR DUPLEX.** See **DWELLING, TWO-FAMILY.**

**UNDERGROUND STORAGE TANK.** Any 1 or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground. Flow-through process tanks and septic tanks approved by the Miami County Health Department or Ohio Environmental Protection

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Agency, as applicable, are excluded from the definition of underground storage tanks.

**USABLE OPEN SPACE.** Outdoor or unenclosed area on the ground, or on a roof, balcony, deck, porch, or terrace, designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but excluding parking facilities, driveways, utility or service areas, or any required front or street side yard, and excluding any space with a dimension of less than 80 square feet.

**USABLE FLOOR AREA.** For the purpose of computing parking, that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of **USABLE FLOOR AREA**. Measurement of floor area shall be the sum of gross horizontal area of the several floors of the building, measured from the interior faces of the exterior walls.

**USE.** The specific purpose for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

**USE, ACCESSORY.** An accessory use is 1 which is subordinate to and serves a principal structure or a principal use; is subordinate in area, extent, and purpose to the principal structure or use served; is located on the same lot as the principal structure or use served except as otherwise expressly authorized by provisions of this chapter; and is customarily incidental to the principal structure or use.

**USE, NONCONFORMANCE.** A use which lawfully occupied a building or land at the time this chapter or an amendment hereto became effective and which does not now conform with the use regulations applicable in the zone district in which it is located.

**USE, PRINCIPAL.** A use which fulfills a primary function of a household, establishment, institution, or other entity.

**USE, PERMITTED.** A use listed by the regulations of any particular district as a permitted use within that district, and permitted therein as a matter of right when conducted in accord with the regulations established by this chapter.

**USE, SPECIAL.** A use permitted within a district other than a use by right, requiring specific approval by the Planning Board following their review of the proposed plan.

**USE, TEMPORARY.** See **TEMPORARY USE**.

**USE, TRANSITIONAL.** See **TRANSITIONAL USE**.

**VAN.**

- (1) A closed vehicle with a capacity of approximately 8 to 12 passengers; or a

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similar sized vehicle modified for commercial purposes.

(2) A self-propelled recreational vehicle containing sleeping facilities but not bathroom or cooking facilities.

(3) A large truck for carrying furniture or freight.

**VARIANCE.** A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, literal enforcement of the regulations would result in unnecessary and undue hardship.

**VEHICLE - JUNK, DISABLED.** An auto, truck, recreational vehicle of other conveyance which is not garaged and is characterized by 1 or more of the following:

(1) Is not currently licensed;

(2) Has not moved under its own power for over 3 months;

(3) May have missing, broken or inoperative essential components; and

(4) No active and continuous repair work has been conducted upon it for over 2 months.

**VESTED RIGHT.** A right is vested when it has become absolute and fixed and cannot be defeated or denied by subsequent conditions or change in regulations, unless it is taken and paid for. There is no vested right to an existing zoning classification or to have zoning remain the same forever. However, once development has been started or has been completed, there is a right to maintain that particular use regardless of the classification given the property. In order for a nonconforming use to earn the right to continue when the zoning is changed, the right must have been vested before the change. If the right to complete the development has not been vested, it may not be built, no nonconforming use will be established, and the new regulations will have to be complied with. Vested rights are often established by showing that some development permit has been obtained and substantial construction on the project started. How much construction or land improvements must have been completed before the rights are vested varies among the states. In some states application for a building permit or other development approval may be sufficient to establish a vested right to complete a project. Others may require substantial investment and beginning of construction on the land, with completion of structures that are unique to the planned project. See **NONCONFORMITIES**.

**VETERINARY ANIMAL HOSPITAL OR CLINIC.** A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention and may include overnight accommodations on the premises for the treatment, observation and/or recuperation. It may also include boarding that is

incidental to the primary activity.

**VICINITY MAP.** A drawing located on a plat which sets forth by dimensions or other means the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the general area in order to better locate and orient the area in question.

**VOCATIONAL SCHOOL.** See **SCHOOL, VOCATIONAL.**

**WALKUP.** An apartment building of more than 2 stories that is not equipped with an elevator.

**WAREHOUSE.** A building or portion thereof used and appropriated by the occupancy for the deposit and safekeeping or selling of his own goods at wholesale or by mail order or for the purpose of storing the goods of others placed there in the regular course of commercial dealing and trade, to be again removed or reshipped.

**WASTEWATER.** Water carrying wastes from homes, businesses and industries that is a mixture of water and dissolved or suspended solids, or excess irrigation water that is run-off to adjacent land.

**WATER COURSE.** Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

**WELL FIELD.** A tract of land that contains 1 or a number of wells for supplying water.

**WHOLESALE TRADE.** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WOODLAND.** An area of planted material covering 1 acre or more and consisting of 30% or more canopy trees having an 8 inch or greater caliper, or any grove consisting of 8 or more trees having a 10 inch or greater caliper.

**WOODLAND, MATURE.** An area of plant material covering 1 acre or more and consisting of 30% or more canopy trees having a 16 inch or greater caliper, or any grove consisting of 8 or more trees having an 18 inch or greater caliper.

**WOODLAND, YOUNG.** An area of plant material covering 1 acre or more and consisting of 70% or more canopy trees having a 2½ inch caliper or greater, or a tree plantation

for commercial or conservation purposes where 70% or more of the canopy trees have a 2½ inch or greater caliper.

**WRECKING YARD.** See **JUNK YARD.**

**YARD.** A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 3 feet above the general ground level of the graded lot upward, except as modified by § 154.059, provided accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.

**YARD, FRONT.** An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified. See Figure II in Appendix A following this chapter.

(1) **FRONT YARD (LEAST DEPTH).** The shortest distance, measured horizontally, between any part of the building, and the front lot line.

(2) **FRONT YARD (LEAST DEPTH, HOW MEASURED).** Such depth shall be measured from the right-of-way line of the existing street on which the lot fronts; provided, however, that if the proposed location of the right-of-way line of such street as established on the Thoroughfare Plan differs from that of the existing street, then the required front yard least depth shall be measured from the right-of-way line of such street as designated on said Thoroughfare Plan.

**YARD, REAR.** An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified. See Figure II in Appendix A following this chapter.

(1) **REAR YARD (LEAST DEPTH).** The average distance measured horizontally between any part of a building, other than such parts hereinafter excepted in § 154.059 and the nearest rear lot line.

**YARD, SIDE.** An open space extending from the front yard to the rear yard between a building and the nearest side lot line unoccupied and unobstructed from the ground upward except as hereinafter specified. See Figure II in Appendix A following this chapter.

(1) **SIDE YARD (LEAST WIDTH).** The shortest distance, measured horizontally between any part of a building, other than such parts hereinafter excepted, and the nearest side lot line.

(2) **SIDE YARD (LEAST WIDTH, HOW MEASURED).** Such width shall be measured from the nearest side lot line. On a corner lot when the side lot line is a side street lot line, the required side yard shall be the same as the required front yard of the lot adjacent

thereto.

**ZONE.** See **ZONING DISTRICT**.

**ZONE OF INFLUENCE.** A zone delineated by iso-travel time contours around well fields. The zone is calculated on the rate of movement of ground waters in the vicinity of wells with an allowance for the dispersion of a pollutant entering into and moving with the groundwater.

**ZONING.** A police power measure, enacted primarily by general purpose units of local government, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts. The zoning code consists of 2 parts; a definition of zoning still applies, but recent innovations in flexible zoning, that is, floating zones and expansion of special use permit controls, have begun to blur some of the code's neatness and clarity.

**ZONING ADMINISTRATOR.** Employee(s) of the city empowered by the City Manager to administer, enforce, and interpret the provisions, regulations, and requirements of the Zoning Code. Decisions of the official usually are appealable to the Board of Appeals.

**ZONING AMENDMENT.** See **REZONING**.

**ZONING BOARD OF APPEALS.** See **BOARD OF APPEALS**.

**ZONING COMPLIANCE, CERTIFICATE OF.** A document issued by the city stating that a development is in compliance with all conditions, requirements, and provisions of the Zoning Code.

**ZONING DISTRICT.** A section of a municipality or county designated in the zoning ordinance text and (usually) delineated on the zoning map, in which requirements for the use of land and building and development standards are prescribed. Within each district, all requirements must be uniform.

**ZONING ENVELOPE.** The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by maximum height regulations, yard setbacks, and sky exposure plane regulations.

**ZONING MAP.** The map delineating the boundaries of districts which, along with the zoning text, comprises the zoning ordinance.

**ZONING PERMIT.** A document signed by the Zoning Inspector, as required by this chapter, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which

complies with the provisions of the Zoning Code or authorized variance therefrom.

***ZERO LOT LINE.*** A development comprising individual single-family detached housing units which are placed against 1 of the side lot lines. Such a design results in a larger side yard on the other side of the house, thus resulting in more usable open space on smaller lots than would be provided if the house were centered on its lot.

(1974 Code, § 154.004) (Ord. 29-93, passed 8-16-1993; Am. Ord. 30-94, passed 9-19-1994; Am. Ord. 13-01, passed 9-4-2001; Am. Ord. 28-02, passed 8-19-2002; Am. Ord. 42-03, passed 12-15-2003; Am. Ord. 07-05, passed 2-22-2005)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR OFFICIAL ZONING MAP**

### ***PROVISIONS FOR OFFICIAL ZONING MAP***

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR OFFICIAL ZONING MAP / § 154.015 OFFICIAL ZONING MAP.**

### **§ 154.015 OFFICIAL ZONING MAP.**

The districts established in §§ 154.030 through 154.031 of this chapter as shown on the Official Zoning Map which, together with all explanatory matter thereon, are hereby adopted as part of this chapter.

(1974 Code, § 154.015) (Ord. 26-93, passed 8-16-1993)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR OFFICIAL ZONING MAP / § 154.016 IDENTIFICATION OF OFFICIAL ZONING MAP.**

### **§ 154.016 IDENTIFICATION OF OFFICIAL ZONING MAP.**

The Official Zoning Map shall be identified by the signature of the President of Council, and attested by the City Clerk.

(A) The Official Zoning Map shall be identified by the signature of the President of

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Council, attested by the City Clerk, and bearing the seal of the city and the following words:  
This is to certify that this is the Official Zoning Map referred to in § 154.015 of Chapter 154 of the Tipp City Code of Ordinances, together with the date of the adoption of this chapter.

(B) If, in accordance with the provisions of this chapter and R.C. Chapter 713, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the effective date of the amendment approved by the City Council, with an entry on the Official Zoning Map including the amending ordinance number, the date of passage of the ordinance, and the initials of the City Clerk.

(C) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under the provisions of the chapter.

(D) Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of Building Regulations shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the city.

(1974 Code, § 154.016) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR  
OFFICIAL ZONING MAP / § 154.017 INTERPRETATION OF DISTRICT  
BOUNDARIES.**

**§ 154.017 INTERPRETATION OF DISTRICT BOUNDARIES.**

(A) Where an amendment to the Official Zoning Map is accompanied by a legal description of the zoning boundary, that legal description shall be interpreted as the zoning boundary line, regardless of the accuracy of the zoning boundary line drawn on the Official Zoning Map.

(B) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerline;

(2) Boundaries indicated as approximately following platted or deeded lot



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lines shall be construed as following such lot lines;

(3) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerline;

(6) Boundaries indicated as parallel to or extensions of features indicated in subdivisions (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(7) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subdivisions (1) through (6) above, the Planning Board shall interpret the district boundaries;

(8) Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Planning Board may permit, as a variance, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(1974 Code, § 154.017) (Ord. 26-93, passed 8-16-1993)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR OFFICIAL ZONING MAP / § 154.018 ZONING OF ANNEXED LAND.**

### **§ 154.018 ZONING OF ANNEXED LAND.**

Whenever any area is annexed to the city, 1 of the following conditions will apply:

(A) Land that is zoned prior to annexation shall be classified as being in whichever district most closely conforms with the zoning that existed prior to annexation. Such classification shall be recommended for an interim period by the Planning Board to the Municipal Council, and the Council shall take action upon the recommendation of the Planning Board after public hearing.

(B) Land not zoned prior to annexation shall be classified in the same manner into whichever district of this code most closely conforms with the existing use of the annexed area,

or in accordance with the master plan in the case of vacant land.

(C) In all cases, within 3 months after the effective date of annexation, the Planning Board shall recommend the appropriate permanent zoning districts for such area to the Municipal Council, and the map shall be amended according to the prescribed procedure set forth in §§ 154.150 through 154.161.

(1974 Code, § 154.018) (Ord. 26-93, passed 8-16-1993)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR ZONING DISTRICTS**

### ***PROVISIONS FOR ZONING DISTRICTS***

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR ZONING DISTRICTS / § 154.030 ESTABLISHMENT OF ZONING DISTRICTS.**

### **§ 154.030 ESTABLISHMENT OF ZONING DISTRICTS.**

For the purpose of promoting the public health, safety, morals, convenience, comfort, prosperity, and general welfare of the city, the following districts are hereby established:

R-1	Open Space Residential
R-1A	Suburban Residential
R-1B	Suburban Residential
R-1C	Urban Residential
R-2	Urban Residential
R-3	Urban Residential
OR	Office-Residential
OS	Office-Service
CB	Convenience Business
GB	General Business

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HS	Highway Service
CC	Community Center
RA	Old Tippecanoe City Restoration and Historic District
I-1	Light Industrial
I-1D	Light Industrial District
I-2	General Industrial
PR	Planned Residential
PMH	Planned Mobile/Manufactured Home Residential
PC	Planned Commercial
PHS	Planned Highway Service
POI	Planned Office/Industrial
CD	Conservation
FP	Floodplain

(1974 Code, § 154.030) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR ZONING DISTRICTS / § 154.031 COMPLIANCE WITH REGULATIONS.**

**§ 154.031 COMPLIANCE WITH REGULATIONS.**

The regulations for each district set forth by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

(A) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be structurally altered except in conformity with all of the regulations herein specified for the district in which it is located;

(B) No building or other structure shall be erected or altered:

(1) To provide for greater height or bulk;

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- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area;
- (4) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner be contrary to the provisions of this chapter.

(C) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements set forth herein.

(D) No lands building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise, brilliant light, vibration; smoke, dust, fumes, odor, or other form of air pollution; heat, cold, dampness, electrical or electronic disturbances, nuclear radiation, or any other condition, substance or element, to any person or property outside of the premises on which such building, structure or use is located; such uses when lawfully permitted under the provisions of this chapter shall be operated in a manner so as to ensure that the property rights of all other parcels of land will not be adversely affected to the extent of reducing the enjoyment of property rights thereon. A use not listed within the use provisions of a zoning district shall be considered to be a prohibited use within that zoning district unless otherwise interpreted by the Board of Zoning Appeals.

(E) In any district, no more than 1 primary structure and its customary accessory use shall be located on a single lot except as specifically provided elsewhere in this chapter.

(1974 Code, § 154.031) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROVISIONS FOR ZONING DISTRICTS / § 154.032 ESSENTIAL SERVICES EXEMPTED.**

**§ 154.032 ESSENTIAL SERVICES EXEMPTED.**

The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions, of overhead, surface or underground gas, electrical steam, or water, distribution or transmission systems, collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, poles, electrical substation, gas regulator stations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utility or municipal department or commission or

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for the public health, safety, or general welfare, shall be exempt from the regulations of this chapter. Provided, however, that the installation shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and those of other authorities having jurisdiction.

(1974 Code, § 154.032) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS**

***DISTRICT REQUIREMENTS***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.040 R-1 OPEN SPACE RESIDENTIAL DISTRICT.**

**§ 154.040 R-1 OPEN SPACE RESIDENTIAL DISTRICT.**

(A) *Purpose.* This district is intended to provide areas for large lot single family residential development reflecting a very low density, open space character, generally designed for outlying, but nonprime agricultural areas. This district is particularly suitable within areas of unique physical characteristics such as woodlands, irregular topography, adjacency to stream corridors, and the like. Such a district classification is also compatible with existing residential areas within the Tipp City area, as well as function as a transitional area between agricultural uses and more urban areas.

(B) *Uses.*

(1) *Permitted uses.*

(a) Single-family dwellings.

(b) Accessory buildings and uses incidental to the principal use which do not include any activity conducted as business. Such facilities are subject to review under § 154.059.

(c) Home occupations. Such facilities require a home occupation permit and are subject to administrative review under § 154.061.

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with § 154.056 or §§ 154.120 through 154.122 in the case of cluster

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developments.

- (a) Cluster residential developments.
- (b) Governmentally owned and/or operated parks and recreational

facilities.

(c) Private noncommercial recreational areas and facilities of an open space nature, such as golf courses, tennis courts, country clubs, and the like.

(d) Cemeteries.

(e) [Reserved]

(f) Radio, television and telecommunication transmission/receiving towers.

(g) Public and parochial primary, intermediate, and secondary schools.

(h) Churches and other buildings for the purpose of religious worship.

(C) *Site-development regulations (permitted uses only).*

(1) *Lot requirements.*

(a) Minimum lot area: 2 acres.

(b) Minimum lot frontage: 200 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 75 feet.

(b) Minimum rear yard depth: 75 feet.

(c) Minimum side yard width on each side: 40 feet.

(3) *Structural requirements.*

(a) Maximum building height: 40 feet.

(b) Maximum lot coverage: 10%.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(1974 Code, § 154.040) (Ord. 26-93, passed 8-16-1993; Am. Ord. 06-06, passed 2-21-2006)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.041 R-1A SUBURBAN RESIDENTIAL DISTRICT.**

**§ 154.041 R-1A SUBURBAN RESIDENTIAL DISTRICT.**

(A) *Purpose.* This district is intended to provide areas suitable for single family residential development of a low density, character within areas generally located within the peripheral areas of the city. This district is further intended to reflect the character of similar existing larger-lot residential areas within the city as well as function as a transitional area between the areas of urban density development and rural areas.

(B) *Uses.*

(1) *Permitted uses.* All permitted and accessory uses as provided within the R-1 District. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.

- (a) All special uses as provided within the R-1 District.
- (b) Libraries.
- (c) Family care homes.

(C) *Site-development regulations (permitted uses only).*

(1) *Lot requirements.*

- (a) Minimum lot area: 20,000 sq. ft.
- (b) Minimum lot frontage: 120 feet.

(2) *Yard requirements.*

- (a) Minimum front yard depth: 40 feet.
- (b) Minimum rear yard depth: 50 feet.
- (c) Minimum side yard width on each side: 15 feet.

(3) *Structural requirements.* Maximum building height: 40 feet.

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(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading space requirements.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.  
(1974 Code, § 154.041) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT  
REQUIREMENTS / § 154.042 R-1B SUBURBAN RESIDENTIAL DISTRICT.**

**§ 154.042 R-1B SUBURBAN RESIDENTIAL DISTRICT.**

(A) *Purpose.* This district is provided to accommodate single family residential development of a moderately low density character within areas of similar development and within areas of similar physical character generally located within the peripheral areas of the city.

(B) *Uses.*

(1) *Permitted uses.* All permitted and accessory uses as provided within the R-1A District. (Regulation governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.

(a) All special uses as provided within the R-1A District with the exception of cemeteries which are prohibited within this district.

(b) Shared housing (maximum number of residents 5).

(c) Congregate housing (maximum number of residents 5).

(C) *Site development regulations (permitted uses only).*

(1) *Lot requirements.*

(a) Minimum lot area: 12,000 sq. ft.

(b) Minimum lot frontage: 100 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 35 feet.

(b) Minimum rear yard depth: 40 feet.



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- (c) Minimum side yard width on each side: 10 feet.
    - (d) Minimum for total of both side yards: 25 feet.
  - (3) *Structural requirements.* Maximum building height: 35 feet.
  - (D) *Parking requirements.* See §§ 154.070 through 154.081 for off-street parking and loading space requirements.
  - (E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.
- (1974 Code, § 154.042) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.043 R-1C URBAN RESIDENTIAL DISTRICT.**

**§ 154.043 R-1C URBAN RESIDENTIAL DISTRICT.**

- (A) *Purpose.* This district is provided to accommodate single family residential development at a somewhat higher density than the R-1B District, generally within the expansion areas of the city as well as within areas of similar residential character.
- (B) *Uses.*
  - (1) *Permitted uses.* All permitted and accessory uses as permitted within the R-1B District. (Regulations governing accessory facilities and uses are specified in § 154.059.)
  - (2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.
    - (a) All special uses as provided within the R-1B District.
    - (b) Day care centers, nursery schools.
    - (c) Community-based residential social service facilities - foster homes for children (maximum number 8), social care homes (maximum number 8).
    - (d) Shared housing (maximum number 8).
- (C) *Site development regulations (permitted uses only).*
  - (1) *Lot requirements.*
    - (a) Minimum lot area: 9,000 sq. ft.

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(b) Minimum lot frontage: 80 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 30 feet.

(b) Minimum rear yard depth: 35 feet

(c) Minimum side yard width on each side: 10 feet.

(3) *Structural requirements.* Maximum building height: 35 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading space requirements.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(1974 Code, § 154.043) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.044 R-2 URBAN RESIDENTIAL DISTRICT.**

**§ 154.044 R-2 URBAN RESIDENTIAL DISTRICT.**

(A) *Purpose.*

(1) This district is provided to accommodate single family development at a relatively high density, reflecting the present density of the majority of single family development within the city. These districts would be located within the intermediate and originally developed neighborhoods of the city.

(2) Provision is also made within this district for the construction of 2-family units as accommodated under special use review.

(B) *Uses.*

(1) *Permitted use.* All permitted and accessory uses as provided within the R-1C District. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.

(a) All special uses as provided within the R-1D District.

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- (b) Two-family dwellings.
  - (c) Community base residential social service facilities - foster homes for adults (maximum number 8).
  - (d) Shared housing (maximum number of residents 10).
  - (e) Congregate housing (maximum number of residents 10).
  - (f) Social care homes (maximum number of residents 8).
  - (g) Community centers.
  - (h) Bed and breakfast.
  - (C) *Site development regulations (permitted uses only).*
    - (1) *Lot requirements.*
      - (a) Minimum lot area: 8,500 sq. ft.
      - (b) Minimum lot frontage: 75 feet.
    - (2) *Yard requirements.*
      - (a) Minimum front yard depth: 30 feet.
      - (b) Minimum rear yard depth: 30 feet.
      - (c) Minimum side yard width on each side: 8 feet.
    - (3) *Structural requirements.* Maximum building height: 35 feet.
  - (D) *Parking requirements.* See §§ 154.070 through 154.081 for off-street parking and loading space requirements.
  - (E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.
- (1974 Code, § 154.044) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994; Am. Ord. 21-94, passed 7-5-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.045 R-3 URBAN RESIDENTIAL DISTRICT.**

**§ 154.045 R-3 URBAN RESIDENTIAL DISTRICT.**

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(A) *Purpose.* This district is intended to accommodate both new and existing conventional multi-family housing as well as selected types of higher density housing types at a "suburban apartment density" similar to most of the city's existing multi-family development. This district reflects most developed multi-family areas as well as areas which could serve a transitional function between single family neighborhoods and commercial areas. Certain areas located in proximity to larger open space areas would be suitable for this zoning classification as well.

(B) *Uses.*

(1) *Permitted uses.*

(a) All permitted and accessory uses as provided within the R-2 District (regulations governing accessory facilities and uses are specified in § 154.059) with the exception of single family dwellings.

(b) Two-family dwellings.

(c) Multi-family dwellings.

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.

(a) All special uses as provided within the R-2 District with the exception of 2-family dwellings, which is a permitted use within the R-3 District.

(b) Single family dwellings.

(c) Townhouses.

(d) Nursing homes for convalescent patients.

(e) Shared housing.

(f) Congregate housing.

(g) Foster care facilities (family and group care).

(h) Zero lot line dwellings.

(i) Housing for the elderly.

(j) Social care homes.

(k) Intermediate care homes.

(l) Bed and breakfast.

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(C) *Site development regulations (permitted uses only).*

(1) *Lot requirements.*

(a) Minimum lot area.

1. Two-family dwellings: 10,000 sq. ft.
2. Multi-family dwellings: 4,000 sq. ft. per unit.

(b) Minimum lot frontage.

1. Two-family dwellings: 80 feet.
2. Multi-family dwellings: 100 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth.

1. Two-family dwellings: 35 feet.
2. Multi-family dwellings: 35 feet.

(b) Minimum rear yard depth.

1. Two-family dwellings: 30 feet.
2. Multi-family dwellings: 40 feet.

(c) Minimum side yard width on each side.

1. Two-family dwellings: 10 feet.
2. Multi-family dwellings: 10 feet.

(3) *Structural requirements.* Maximum building height: 35 feet.

(4) *Usable open space.* Area: multi-family units shall be designed so that each unit shall abut upon common usable open space. Such common open space shall in total average a minimum of 500 square feet per unit, be exclusive of areas used for vehicular circulation, parking and accessory buildings. Only areas having at least dimensions of 20 linear feet shall qualify for computation as usable open space.

(D) *Parking requirements.* See §§ 154.070 through 154.081 for off-street parking requirements.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(1974 Code, § 154.045) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.046 OR OFFICE RESIDENTIAL DISTRICT.**

**§ 154.046 OR OFFICE RESIDENTIAL DISTRICT.**

(A) *Purpose.* This district provides for residences, offices and service facilities in suitable locations in which they can support community needs without producing incompatible effects on adjacent uses. Such a district is particularly appropriate adjacent to arterial streets, as well as between commercial areas and residential neighborhoods.

(B) *Uses.*

(1) *Permitted uses.*

(a) All permitted uses as provided within the R-2 Urban Residential District.

(b) Professional offices of doctors, dentists, chiropractors, lawyers, engineers and similar type professions limited to 3 such principal professionals per site, excluding support personnel.

(c) Real estate, insurance and similar type offices provided that no retail trade with the general public is carried on, that no stock of goods is maintained for sale to customers, and that occupancy is limited to 3 principal professionals, excluding support personnel.

(d) Barber and beauty shop (1 chair operation only).

(e) Instructional studios.

(f) Accessory buildings incidental to the principal use which do not include any activity conducted as a business. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review and regulation in accordance with §§ 154.120 through 154.122.

(a) All permitted and special uses as provided within the R-3 Urban Residential District.

(b) Publicly owned and operated neighborhood recreation centers.

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(c) Funeral homes.

(d) Halfway houses.

(e) Medical and dental clinics; professional offices as previously identified containing more than 3 such professionals per site.

(C) *Site development regulations.* (For uses permitted by right within the R-3 District, the requirements of that district shall be applicable. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122. All commercial uses shall conform to all pertinent requirements as specified in § 154.061 of this chapter.)

(1) *Lot requirements.*

(a) Minimum lot area: 7,500 square feet.

(b) Minimum lot frontage: 60 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 35 feet. (Average of adjoining front yard depths if some are less than 25 feet.)

(b) Minimum rear yard depth: 35 feet.

(c) Minimum side yard width on each side: 8 feet.

1. Commercial uses: 10 feet. (Where a side lot line coincides with a side lot line in a Residential District, the side yard dimensions shall be provided adjacent to respective Residential Districts as follows: R-1 Districts - 25 feet; R-1A - R-1C Districts - 20 feet; R-2 Districts - 15 feet; R-3 Districts - 10 feet. These standards may be nullified as per § 154.061.

(3) *Structural requirements.*

(a) Maximum building height: 35 feet.

(b) Structural area. Commercial uses: not to exceed 2,500 square feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements.

(E) *Signs.* See §§ 154.090 through 154.106 for size and type of permitted signs.  
(1974 Code, § 154.046) (Ord. 26-93, passed 8-16-1993; Am. Ord. 6-96, passed 2-20-1996)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT**

**REQUIREMENTS / § 154.047 OS OFFICE-SERVICE DISTRICT.**

**§ 154.047 OS OFFICE-SERVICE DISTRICT.**

(A) *Purpose.* This district provides for the location of offices, banks, institutional, governmental, and personal services in suitable locations in which they can support community needs as well as serve as transitional areas between residential and commercial districts or between major thoroughfares and residential districts.

(B) *Uses.*

(1) *Permitted uses.*

(a) Business and professional offices, finance, insurance, real estate offices, banks (except drive-in type).

(b) Research and development laboratories.

(c) Medical and dental clinics. [These uses shall also comply with the development provisions contained in § 154.122(B)(14).]

(d) Funeral homes. [These uses shall also comply with the development provisions contained in § 154.122(B)(23).]

(e) Barber and beauty shops.

(f) Instructional studios.

(g) Churches. [These uses shall also comply with the development provisions contained in § 154.122(B)(13).]

(h) Radio and television broadcasting studios.

(i) Accessory buildings and uses incidental to the principal use. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with § 154.120 through 154.122.

(a) Day care centers, nursery schools. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(18).]

(b) Retail and service uses such as restaurants, drug stores, tobacconists, gift shops, but only when located entirely within a building or structure containing



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primarily a use or uses permitted in this District.

(c) *Hospitals*. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(26).]

(d) Business and industrial sales- service establishments where a stock of goods may be maintained on the premises for local or regional transport and sales to customers, provided that retail sales do not comprise a major portion of the total business.

(e) Printing establishments.

(f) Veterinarian offices. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(26).]

(g) Governmentally owned and/or operated parks and recreational facilities.

(h) Private noncommercial recreational areas and facilities of an open space nature, such as golf courses, tennis courts, country clubs, and the like. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(15).]

(i) Cemeteries. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(12).]

(j) Public and parochial: primary, intermediate, and secondary schools. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(31).]

(k) Community centers. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(13).]

(l) Libraries. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(13).]

(m) Nursing homes for convalescent patients. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(28).]

(C) *Site development regulations*. (See § 154.061 for additional provisions for commercial facilities. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

(1) *Lot requirements*.

(a) Minimum lot area: 10,000 sq.ft.

(b) Minimum lot frontage: 80 feet.

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(2) *Yard requirements.*

(a) Minimum front yard depth: 25 feet.

(b) Minimum rear yard depth: 35 feet.

(c) Minimum side yard width on each side: 10 feet. (Plus 1 foot for each 2 feet by which the building or structure height exceeds 20 feet. Where a side lot line coincides with a side lot line in a Residential District, the side yard dimensions shall be provided adjacent to respective Residential Districts as follows: R-1 - R-1C - 20 feet; R-2 - 15 feet; R-3 - 10 feet. Where required, a landscape screening of trees or compact hedge or wall shall be provided as described in § 154.061.

(3) *Structural requirements.* Maximum building height: 35 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.*

(1) A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and the vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(2) All merchandise, new and used, with the exception of sales displays approved as temporary uses, shall be stored within a completely enclosed building. Open storage may be permitted if located behind the principal structure if visually screened from the street and adjacent properties by a landscaped screen, fence or wall.

(1974 Code, § 154.047) (Ord. 26-93, passed 8-16-1993; Am. Ord. 18-99, passed 9-7-1999)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.048 CB CONVENIENCE BUSINESS DISTRICT.**

**§ 154.048 CB CONVENIENCE BUSINESS DISTRICT.**

(A) *Purpose.* This District is intended to provide for relatively small business and

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service establishments in suitable locations primarily to serve the daily staple needs of residents.

### (B) *Uses.*

#### (1) *Permitted uses.*

(a) Retail sales and services including any local convenience retail and/or service uses including but not limited to: grocery or other small food stores, hardware and paint stores, florist shops, book, stationery and gift stores, hobby shops, shoe repair, candy and ice cream stores, drug stores, barber shops, beauty shops, bakery shops, dry cleaning and laundry pick-up stations, laundromats, and the like, which supply commodities or perform services primarily of a convenience nature.

(b) Instructional and commercial studios.

(c) Other uses as may be deemed appropriate by the Plan Board.

(d) Accessory buildings incidental to the principal use. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

(a) Supermarkets.

(b) Veterinarian office. [These uses shall also comply with the development provisions contained in § 154.122(A) and § 154.122(B)(4).]

(c) Carry-outs.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial facilities. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

#### (1) *Lot requirements.*

(a) Minimum lot area: 5,000 sq. ft.

(b) Minimum lot frontage: 60 feet.

#### (2) *Yard requirements.*

(a) Minimum front yard depth.

1. 20 feet if frontage of lots is 100 feet or more, or if adjacent land is not built upon, or if buildings on adjacent lots have provided front yards of 20 feet or more.

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2. If frontage is less than 100 feet and if a building on an adjacent lot, or buildings on adjacent lots, provide yards less than 20 feet in depth, a front yard equal to average of adjacent front yards is required.

3. Where a CB District is located in a block, a portion of which is residentially zoned, the front yard requirements of the residential district shall apply to said CB lot.

(b) *Minimum rear yard depth.*

1. Where lot line abuts other business or industrial district lot lines, none, except as required to meet other provisions for loading, parking, and the like.

2. When lot line abuts residential lot line, see transitional requirements.

(c) *Minimum side yard width.*

1. Where lot line abuts other business or industrial district lot lines: zero except if a side yard is provided, it should be a minimum of 4 feet.

2. Where lot line abuts residential lot line, see transitional requirements.

(d) *Transitional requirements.* When said side or rear lot line abuts residential district lot lines, the minimum side or rear transitional setback distance shall be 20 feet in depth and provided with a landscape screen or wall.

(3) *Structural requirements.*

(a) Maximum building height 35 feet.

(b) Size of establishments: Permitted office or commercial uses shall not exceed the floor area per individual use or business establishment shown in the following table. Such uses may be allowed to exceed the maximum establishment size subject to revision under the special use provision in accord with §§ 154.120 through 154.122. The maximum establishment size for any special use shall be established by the Planning Board and specified in the special use permit for such use.

<i>Use</i>	<i>Maximum gross floor area</i>
Medical and dental offices	2,500 sq. ft.

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Any combination of office establishments in a single suite of offices served by common entries, utilities, reception areas, or other services	5,000 sq. ft.
Personal services	2,500 sq. ft.
Retail services	5,000 sq. ft.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.*

(1) To minimize traffic congestion on major roads and to protect the surrounding residential areas from any adverse activities that may be associated with such business uses, a site plan, showing the site layout, including the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, and the vehicular circulation pattern, structure siting and dimensions, off-street parking spaces, landscaped yards, and the location and type of lighting facilities and signs shall be submitted to, and approved by, the Planning Board prior to granting the subject zoning designation.

(2) No zoning certificate shall be issued for a "CB" use, until the applicant shall have certified to the Zoning Inspector that:

(a) The business activity is open to the public only between the hours of 6:00 a.m. and 11:00 p.m.

(b) The business activity shall be conducted wholly within a completely enclosed building.

(c) The business establishment shall not offer goods, service, food, beverages or make sales directly to customers in automobiles, except for drive-in windows for pick-up or delivery and which will be provided with adequate driveway space on the premises for

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waiting vehicles.

(d) All business shall be of a retail or service character.

(e) No manufacturing, processing, packaging, repair or treatment of goods shall be carried on, except when incidental or accessory to the performance of services or the sale of goods to the public on the premises.

(f) All premises shall be furnished with all-weather hard surface walks of a material such as bituminous or portland cement concrete, wood, tile, terrazzo or similar material, and, except for parking areas, the grounds shall be planted and landscaped.

(g) No noise from any operation conducted on the premises, either continuous or intermittent, shall violate the provisions of § 154.060.

(h) There will be no emission of odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines.

(i) There will be no vibrations which can be detected without the use of instruments at or beyond the lot lines.

(3) Failure to comply with any of the above conditions by property owners or users will be considered a zoning violation appropriate for prosecution under the terms of this chapter.

(4) A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and the vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(5) All merchandise, new and used, with the exception of sales displays approved as temporary uses, shall be stored within a completely enclosed building. Open storage may be permitted if located behind the principal structure if visually screened from the street and adjacent properties by a landscaped screen, fence or wall.

(1974 Code, § 154.048) (Ord. 26-93, passed 8-16-1993; Am. Ord. 19-99, passed 9-7-1999)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.049 GB GENERAL BUSINESS DISTRICT.**

**§ 154.049 GB GENERAL BUSINESS DISTRICT.**

(A) *Purpose.* This district is intended to provide for a variety of retail, service and

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administrative establishments required to satisfy the needs of the overall community. This District is also intended to accommodate retail trade establishments in the community which cannot be practically provided for in a neighborhood commercial district development.

### (B) *Uses.*

#### (1) *Permitted uses.*

(a) All permitted uses as provided within the Convenience Business District.

(b) Department stores up to 50,000 square feet in total floor area.

(c) Establishments engaged in the retail trade of: drugs, books, stationery, apparel, jewelry, optical goods, furniture, home furnishings, cameras-photo supplies, hardware, hobby shops, music, musical instruments, pet sales and supplies, radio and television sales and service, sporting goods, newsstands, and similar retail activities but not including uses with drive-through facilities.

(d) Office equipment and office supply stores.

(e) Establishments engaged primarily in the fields of finance, insurance, and real estate such as banks, credit agencies, investment firms, real estate and insurance offices, but not including uses with drive-through facilities.

(f) Miscellaneous business services such as advertising, news syndicates, employment agencies, travel bureaus and ticket offices.

(g) Engineering and architectural services, legal services, accounting, auditing, and bookkeeping services.

(h) Nonprofit, professional, service, charitable and labor organizations.

(i) Business schools or private schools operated for a profit.

(j) Theaters, not including drive-ins.

(k) Restaurants, not including drive-in or fast food.

(l) Post office and governmental office buildings.

(m) Accessory buildings incidental to the principal use. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(n) Temporary sidewalk sales, provided such sales receive an approved zoning compliance permit and are conducted for no more than 2 days in any 30-day period.

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(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

(a) Drive-in and fast-food restaurants. [These uses shall also comply with the development standards contained in § 154.122(B)(19).]

(b) Automobile service stations. [These uses shall also comply with the development standards contained in § 154.122(B)(5).]

(c) Auto and truck rental; new and used car, light truck, bicycle or motorcycle sales and services; boat and marine equipment sales, rental and accessory service; trailer sales and rentals. For the purposes of this subsection, light trucks shall be defined as those vehicles with a Gross Vehicle Weight of less than 15,000 pounds and trailers shall exclude commercial flat-bed trailers, semi-trailers and similar vehicles.

(d) Banks including drive-in facilities. [These uses shall also comply with the development standards contained in § 154.122(B)(7).]

(e) Churches, mortuaries. [These uses shall also comply with the development standards contained in § 154.122(B)(13).]

(f) Cultural institutions including public libraries, public art galleries and public museums. [These uses shall also comply with the development standards contained in § 154.122(B)(13).]

(g) Bowling alleys. [These uses shall also comply with the development standards contained in § 154.122(B)(9).]

(h) Indoor skating rinks and similar recreational uses. [These uses shall also comply with the development standards contained in § 154.122(B)(9).]

(i) Animal hospitals and/or kennels. [These uses shall also comply with the development standards contained in § 154.122(B)(4).]

(j) Building supplies, garden supplies. [These uses shall also comply with the development standards contained in § 154.122(B)(10).]

(k) Temporary and/or outdoor sales of plants and garden supplies. [These uses shall also comply with the development standards contained in § 154.122(B)(32).]

(l) Night clubs, discotheques, and the like. [These uses shall also comply with the development standards contained in § 154.122(B)(8).]

(m) Other uses determined by the Planning Board to be of the same general character as the permitted and special uses previously listed and determined by the Planning Board to contribute to the district's role in providing services to the community. In



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considering or reviewing any such uses, the Planning Board shall consider the impact of the use upon the district as a whole and the extent to which the use in its proposed location produces traffic volumes that negatively affect other uses. In this regard the Planning Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this zone; the cost of such expert assistance shall be borne by the applicant.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial facilities. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

(1) *Lot requirements.*

- (a) Minimum lot area: 10,000 sq.ft.
- (b) Minimum lot frontage: 80 feet.

(2) *Yard requirements.*

- (a) Minimum front yard depth.

1. Twenty-five feet if frontage of lot is 100 feet or more, or if adjacent land is not built upon, or if buildings on adjacent lots have provided front yards of 25 feet or more.

2. If frontage is less than 100 feet and if a building on an adjacent lot, or buildings on adjacent lots, provide yards less than 25 feet in depth, a front yard equal to average of adjacent front yards is required.

3. Where a GB District is located in a block, a portion of which is residentially zoned, the front yard requirements of the residential district shall apply to said GB lot.

(b) *Minimum rear yard depth.*

1. Where lot line abuts the business or industrial district lot lines - none, except as required to meet the provisions for loading, parking, and the like.

2. Where lot line abuts residential lot line, see transitional requirements.

(c) *Minimum side yard.*

1. Where lot line abuts other business or industrial district lot lines: zero except if a side yard is provided, it should be a minimum of 4 feet.

2. Where lot line abuts residential lot line, see transitional

requirements.

(d) *Transitional requirements.* When said side or rear lot line abuts residential district lot lines, the minimum side or rear transitional setback distance shall be 25 feet in depth and provided with a landscape screen or wall as defined in § 154.004.

(3) *Structural requirements.* Maximum building height: 45 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.*

(1) A request to rezone land to General Business must be substantiated with evidence that such a use will not conflict with the intended function of a major street to carry traffic; and that the capacity of the street(s) will not be materially reduced by the additional commercial facilities. Where necessary to achieve these conditions, the developer may be requested to provide special thoroughfare improvements such as dedication of right-of-way and/or easement.

(2) All merchandise, new and used, with the exception of boat, automobile, truck or farm implements and plants and garden supplies when approved as special uses, shall be stored within a completely enclosed building. Open storage may be permitted if located behind the principal structure if visually screened from the street and adjacent properties by a landscaped screen, fence or wall.

(3) A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and the vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(1974 Code, § 154.049) (Ord. 26-93, passed 8-16-1993; Am. Ord. 20-99, passed 9-7-1999; Am. Ord. 28-02, passed 8-19-2002; Am. Ord. 03-06, passed 2-21-2006)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.050 HS HIGHWAY SERVICE DISTRICT.**

**§ 154.050 HS HIGHWAY SERVICE DISTRICT.**

(A) *Purpose.* This district is intended to provide an appropriate location for commercial establishments offering accommodations, supplies and services, and retail sales to the motoring public. Such a district is most appropriately located adjacent to freeway interchanges and intersections of major thoroughfares.

(B) *Uses.*

(1) *Permitted uses.*

(a) Restaurants. [Drive-in, fast-food, carry-out and other restaurants offering such similar services shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(19).]

(b) Bars and taverns. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(8).]

(c) Motels. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(27).]

(d) Automobile service stations, automobile service centers, and automobile repair garages. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(5).]

(e) Auto and light truck rental; new and used car, light truck, bicycle, motorcycle sales and accessory services; boat and marine equipment sales, rental and accessory service; trailer sales and rentals. For the purposes of this subsection, light trucks shall be defined as those vehicles with a Gross Vehicle Weight of less than 15,000 pounds and trailers shall exclude commercial flat-bed trailers, semi-trailers and similar vehicles.

(f) Car wash facilities. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(11).]

(g) Retail sales of drugs, books, apparel, jewelry, toys, furniture, hardware, sporting goods, groceries, and similar retail products.

(h) Department stores up to 50,000 square feet in total floor area.

(i) Banks; financial services, executive, administrative, and professional offices; and personal service offices and shops such as shoe repair or barber shops and dry cleaning pick-up stations. [Banks and any other facilities offering drive-through service shall also comply with the development standards contained in §§ 154.122(A) and

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154.122(B)(7).]

(j) Medical and dental offices, clinics, laboratories, health centers and hospitals. [Hospitals shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(26); and clinics or similar uses shall also comply with the development provisions contained in §§ 154.122(A) and 154.122(B)(14).]

(k) Veterinarian offices, kennels and animal hospitals. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(4).]

(l) Theaters. [Drive-in theaters shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(20).]

(m) Health spas and indoor recreational facilities, such as handball courts and skating rinks. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(9).]

(n) Par 3 golf courses, miniature golf, driving ranges.

(o) Day care centers. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(18).]

(p) Accessory buildings and uses incidental to the principal use. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

(a) Tool rental and farm or construction equipment sales and rental. [These uses shall also comply with the development standards contained in Section 154.122(B)(10).]

(b) Home improvement centers and lumber yards. [These uses shall also comply with the development standards contained in Section 154.122(B)(10).]

(c) Department stores over 50,000 square feet in total floor area.

(d) Other uses determined by the Planning Board to be of the same general character as the permitted and special uses previously listed and determined by the Planning Board to contribute to the district's role in providing services to the motoring public and a larger community of interest. In considering or reviewing any such uses, the Planning Board shall consider the impact of the use upon the nearby highway interchange or intersection, the impact of the use upon the district as a whole, and the extent to which the use in its proposed location produces traffic volumes that negatively affect other uses. In this regard the Planning

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Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this zone; the cost of such expert assistance shall be borne by the applicant.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial facilities.)

(1) *Lot requirements.*

(a) Minimum lot area: 20,000 sq. ft.

(b) Minimum lot frontage: 150 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 50 feet.

(b) Minimum rear yard depth.

1. Where lot line abuts other business or industrial district lot lines - none, except as required to meet other provisions for loading, parking, and the like.

2. Where lot line abuts residential lot line, see transitional requirements.

(c) Minimum side yard depth.

1. Where lot line abuts other business or industrial district lot lines, a setback of 30 feet shall be provided.

2. Where lot line abuts residential lot line, see transitional requirements.

(d) Transitional requirements. When said side or rear lot line abuts residential district lot lines, the minimum side or rear transitional setback distance shall be 50 feet in depth and provided with a landscape screen or wall.

(3) *Structural requirements.* Maximum building height: 50 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Supplementary regulations.*

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(1) A request to rezone land to Highway Service must be substantiated with evidence that such a use will not conflict with the intended function of a major street to carry traffic; and that the capacity of the street(s) will not be materially reduced by the additional commercial facilities. Where necessary to achieve these conditions, the developer may be requested to provide required thoroughfare improvements such as dedication of right-of-way and/or pavement.

(2) A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and the vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(3) All merchandise, new and used, with the exception of sales displays of boat, automobile, and plants and garden supplies when approved as temporary uses, shall be stored within a completely enclosed building. Open storage may be permitted if located behind the principal structure if visually screened from the street and adjacent properties by a landscaped screen, fence or wall.

(1974 Code, § 154.050) (Ord. 26-93, passed 8-16-1993; Am. Ord. 8-99, passed 5-17-1999)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.051 CC COMMUNITY CENTER DISTRICT.**

#### **§ 154.051 CC COMMUNITY CENTER DISTRICT.**

(A) *Purpose.* This district is designed to provide for a somewhat restricted variety of retail stores and business and consumer service establishments which function most efficiently from a central place in the community, and which serve the comparison shopping and service needs of Tipp City and its environs. Activities are encouraged which will not result in vehicular pedestrian conflicts nor produce "dead spaces" within this more intensive commercial activity area.

(B) *Uses.*

(1) *Permitted uses.*

(a) Department stores.

(b) Establishments engaged in the retail trade of drugs, art, books and stationery, bicycle stores including rental and repair; apparel stores including specialty shops, florist shops, antique shops, sporting goods stores, coin and stamp stores, jewelry stores, gift shops; food stores, grocery stores, meat market, bakery goods sales, candy and ice cream shops

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and delicatessens; hobby shops, interior decorating shops, leather goods and luggage stores, pawn shops, second hand stores, shoe stores and repair shops; tobacco shops, variety stores, optical goods, furniture, home furnishing and appliance stores.

(c) Eating and drinking, restaurants or other places serving food and/or beverage except drive-ins.

(d) Hardware and related stores such as paint, wallpaper, and similar uses.

(e) Establishments engaged primarily in the field of finance, insurance, and real estate: banks, excluding drive-in type; credit agencies other than banks; investment companies, real estate, insurance companies.

(f) Establishments engaged in providing a variety of personal services to individuals, such as barber and beauty shops, and shoe repair.

(g) Medical and other health services.

(h) Employment agencies, miscellaneous business services such as advertising, accounting, auditing, and bookkeeping services.

(i) Engineering and architectural services.

(j) Nonprofit professional, charitable, service and labor organizations.

(k) Schools: music, dance and business, clothing and costume rental stores, photographer's or artist's studios.

(l) Radio and television broadcasting studios.

(m) Travel bureaus and ticket offices.

(n) Accessory buildings incidental to the principal use. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

(a) Libraries and museums.

(b) Residential dwellings.

(c) Commercial parking lots.

(d) Banks with drive-in facilities.

(e) Shops producing merchandise to be sold at retail providing that no

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more than 5 persons are employed on the premises in such production.

(f) Day-care centers serving employees of a commercial firm located within this district. Such centers shall be completely housed within the respective commercial structure.

(g) Other uses determined by the Planning Board to be of the same general character as the permitted and special uses previously listed, or other uses determined by the Planning Board to contribute to the district's role as a central place for the community. In considering or reviewing any such uses, the Planning Board shall review the historic documentation submitted, along with other historic records as may be available. The Planning Board shall consider the impact of the use upon the district as a whole, the extent to which the activity may produce pedestrian/vehicle conflicts, and whether the use in its proposed location produces "dead spaces" within this area of more intense commercial activity. The Planning Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this district and this subsection.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial

facilities. Townhouse and other higher density type dwellings shall be guided by respective provisions within the special use section. A minimum lot area of 4,000 square feet per unit for conventional multi-family dwellings, with single conventional family detached units prohibited.)

(1) *Lot requirements.*

(a) Minimum lot area: sufficient to meet all other yard, parking and loading requirements.

(b) Minimum lot frontage: sufficient to meet all other yard, parking and loading requirements.

(2) *Yard requirements.* Zero except if a side yard is provided, it should be a minimum of 4 feet. Where lot line abuts residentially zoned area without street separation, the minimum side or rear transitional setback distance shall be 25 feet in the depth and provided with a landscape screen or wall as defined in § 154.061.

(3) *Structural requirements.* Maximum building height. There shall be no specific height limitation in the Community Center District; however, prior to the issuance of a building permit for any structure which is planned to exceed 45 feet in height, the Planning Board shall make a finding that any such excessive height will not be detrimental to the public safety, to the light, air or privacy of any other structure or use currently existing or approved for construction.



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(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading space requirements, except that the required number of spaces, if any, shall be determined by the Planning Board on a case by case basis. The Planning Board may waive any and all such off-street parking and loading space requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.*

(1) A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(2) If the property is located in the RA - Old Tippecanoe City Restoration and Architectural District the applicant shall first obtain approval for the building, fencing, colors, and all other relevant items from the Restoration and Architectural Board of Review prior to submitting a site plan to the Planning Board.

(1974 Code, § 154.051) (Ord. 26-93, passed 8-16-1993; Am. Ord. 33-96, passed 11-18-1996; Am. Ord. 18-01, passed 10-15-2001; Am. Ord. 31-04, passed 6-21-2004)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.052 RA OLD TIPPECANOE CITY RESTORATION AND ARCHITECTURAL DISTRICT.**

#### **§ 154.052 RA OLD TIPPECANOE CITY RESTORATION AND ARCHITECTURAL DISTRICT.**

(A) *Purpose.* The purpose of this section is to preserve and maintain that unique character of historical Tippecanoe City which serves as a visible reminder of the history and cultural heritage of the city, state, and nation. Furthermore, it is the purpose of this section to stabilize and improve property values within the Old Tippecanoe Restoration District through protection and preservation of the basic characteristics, and solicit architectural details of structures compatible with the district, and to encourage new buildings and developments which will be harmonious with the existing historic architecture.

(B) *Objectives.*

(1) Every reasonable effort shall be made to provide a compatible use for a

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property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, whenever practical. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities wherever practical. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means practicable. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken without the express written permission of the Restoration Board.

(8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Whenever practical, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

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(C) *Definitions.* In addition to the definitions in § 154.004, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Where a conflict occurs between a definition in this section and § 154.004, the definition provided in this section shall take precedence.

***ALTER/ALTERATION.*** Any material change, including a change in color, in external architectural features, including landscaping, of any property subject to the provisions of this subchapter, not including demolition, removal, or construction.

***APPLICANT.*** Any person, persons, association, partnership, or corporation who applies to undertake an environmental change of property subject to the provisions of this section.

***BOARD.*** The Restoration and Architectural Board of Review established under the provisions of this chapter.

***CHANGE.*** Any alteration, demolition, removal or construction involving any property subject to the provisions of this section, including signs.

***COUNCIL.*** The City Council.

***LANDSCAPING.*** Includes the visual design and arrangement of parking lots, vacant lots, and other open areas, together with man-made materials or other non-living materials or objects, but shall not include the planting and arrangement of flowers, shrubs, and trees as they relate to a single property.

***MEMBER.*** Any member of the Restoration and Architectural Board of Review.

***OWNER.*** Owner or owners of record.

***PRESERVATION.*** The process of sustaining the form and extent of a structure essentially as it now exists. Preservation aims to halt further deterioration and provide structural stability, but does not contemplate significant rebuilding.

***PROPERTY.*** Any place, building, structure, work of art, or similar object constituting a physical betterment of real property, or any part of such betterment, but not including real property unless expressly identified as such.

***RECONSTRUCTION.*** The process of reproducing by new construction the exact form and detail of a vanished structure, or part of it, as it appeared at a specific period of time.

***REHABILITATION.*** The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use. In rehabilitation, those portions of the property which are important in illustrating historic cultural

values are preserved and restored.

**RESTORATION.** The process of accurately recovering the form and details of a property as it appeared at a particular period of time by means of removal of later work and the replacement of missing original work.

**RESTORATION DISTRICT** or **DISTRICT.** The area established by City Council for the purpose of maintaining and fostering a distinctive historical, architectural, cultural, or environmental character.

**SIGN.** Any object or device or part thereof situated outdoors which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion illumination or projected images.

(D) *Regulation of property.* No person, partnership, society, association, corporation, or organization shall make any exterior construction, reconstruction, alteration, or demolition on any property within the district unless a certificate of appropriateness has been issued by the Board.

(E) *Establishment of boundaries.*

(1) The district contains all lots which abut Main Street between the canal on the east through lots 201 and 407 on the west. In addition to that area, between the canal and Second Street, and all lots north of Dow Street. Between Second and Third Street, the district also contains all lots between Walnut and Main, and between Third Street and Fourth Street, it contains all lots between Dow and Main, and between Fourth Street and the railroad, it includes lot 121.

(2) (a) Specifically the lots in the district are as follows: Inlots 1, 14 through 45, 48 through 51, 78, 79, 115 through 118, 121, 127 through 142, 193 through 196, 201, 362 through 369, 491, 617 through 619, 1038 through 1041, Outlot 44, Outlot 45, Outlot 30 north of the east-west alley.

(b) The southern half of Inlot 4019 (old Inlot numbers 29 and 30), remains within the Old Tippecanoe Restoration and Architectural Zoning District.

(F) *Restoration and Architectural Board of Review; membership.*

(1) To implement the foregoing purposes and the requirements herein set forth, a Restoration and Architectural Board of Review is created. The short title of this Board shall be "The Restoration Board."

(2) The Restoration Board shall consist of members appointed by the City

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Council, in accordance with the regulations of § 36.040 of the Tipp City Code of Ordinances.

(G) *Officers; meetings and rules of the Restoration Board*. Officers, meetings and rules of the Restoration Board shall be provided in accordance with §§ 36.040 through 36.048 of the Tipp City Code of Ordinances.

(H) *Powers and duties of the Restoration Board*.

(1) It shall be the duty of the Restoration Board to review all plans for the construction, alteration, repair, moving, and demolition of the structures in the district. The Restoration Board shall also act as advisor to the City Planning Board and City Council. The Restoration Board shall:

(a) Adopt guidelines for the review of proposed exterior changes and establishment of standards, using as the basis the Secretary of the Interior's Standards for Rehabilitation. See division (B).

(b) Determine whether any proposed activity and the results thereof will be appropriate to the preservation of said district within the intent of this section, and the guidelines adopted by the Restoration Board.

(c) Adopt by-laws for the internal workings of the Restoration Board.

(d) Provide input to City Council, city staff, and other boards and commissions regarding historic and architectural restoration.

(e) Issue Certificates of Appropriateness for approved construction and improvements within the district.

(2) It is the intent of this section that the Restoration Board shall encourage that the making of alterations and repairs to structures in the district be made in the spirit of their architectural style, and that additions to structures be made in styles which should complement the original architectural style.

(a) The Restoration Board may request from the applicants such additional information, sketches, and data as it shall reasonably require.

(b) The Restoration Board shall have the power to call in experts and specialists for testimony and opinion to aid in its deliberations.

(c) The Restoration Board may recommend to the applicant changes in the plans that it considers desirable, and may accept the applicant's voluntary amendment of the application to include or reflect the changes.

(I) *Appropriate architectural and design controls*. The architectural style, applicable generally to the principal and accessory building or structure, or buildings and structures, should

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adhere as closely as possible to the original architectural styles represented in the district; including, but not necessarily limited to, such characteristics as:

- (1) Building height.
- (2) Building width.
- (3) Roof type.
- (4) Building materials consisting of the type characteristic of the period.
- (5) Ornamentation of features such as windows and door lintels, quoin, soffits, cornices, fences, railing, and the like.
- (6) The building set-back from the street line.
- (7) Paving and walkways.
- (8) The color or colors of the exterior as related to color or colors of surrounding buildings.
- (9) Signage.
- (10) Landscaping.
- (11) The Restoration Board shall provide advice but shall not exercise any controls on any improvements, changes, or alterations which are entirely within the interior of a structure.

(J) *Controls not appropriate for the district.* The following controls are not appropriate for the district.

- (1) Interior arrangement of the buildings.
- (2) The use to be made of the building which shall not be considered by the Restoration Board in determining whether an application complies with the provisions of this section.

(K) *Procedure for review of plans.*

(1) Those persons, partnerships, societies, associations, or corporation seeking to undertake within the district any construction, enlargement, rebuilding, relocation, remodeling, exterior repainting, or demolition shall make written application to the Community and Economic Development Department, on printed forms provided by the Restoration Board, and the application shall promptly be referred to the Restoration Board.

- (2) The Restoration Board Secretary shall notify the applicant of the date and

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time of the meeting; and at the meeting the Restoration Board shall review the application relative to the criteria of this section and its regulation; shall hear and review the comments, exhibits, or other relevant information presented by any other interested persons attending the meeting in person or by counsel.

(3) The Restoration Board may elect to approve, amend, or reject any application based upon the standards adopted by the Restoration Board. Upon approval of an application, the Board will issue a certificate of appropriateness.

(4) In the event that the Restoration Board does not act upon a complete application within 65 days of the filing date, the application shall be deemed approved.

(5) The certificate of appropriateness must be conspicuously posted on the premises throughout the time of construction.

(6) The certificate of appropriateness shall expire 1 year after issuance unless an extension is granted by the Restoration Board for a period not to exceed 1 additional year.

(L) *Review guidelines.*

(1) *Demolition.*

(a) In cases where a property owner applies for a permit to demolish a building within the district, evidence shall be submitted to the Restoration Board by the applicant, that 1 or more of the following conditions prevail:

1. That the building proposed for demolition is not inherently consistent with other structures within the district.

2. That the building contains no features of special architectural and historic significance.

3. That there exists no reasonable economic use for the building as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition, or that deterioration has progressed to the point where it is not economically feasible to restore the building.

(b) If the Restoration Board finds the application for demolition does not meet the above criteria, the application for permit shall be delayed for 6 months while the Restoration Board and property owner work cooperatively to seek restoration alternatives. If after 6 months, no restoration alternative can be reached which is acceptable to the property owner and the Restoration Board, the certificate of appropriateness allowing demolition shall be issued.

(2) *Synthetic sidings.* In cases where a property owner applies for a permit to place synthetic siding over an existing building within the district, evidence shall be submitted to

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the Restoration Board by the applicant that the following have been met:

(a) Written estimates from reputable contractors, showing that all alternatives have been attempted or studied and the request for siding is the last resort.

(b) The applicant has read publications regarding the problems of synthetic siding. Pertinent publications can be obtained through the Restoration Board.

(3) *General review guidelines.* The Restoration Board shall use the guidelines described in division (H)(1)(a).

(M) *Appeal.* In the event that the Restoration and Architectural Board of Review does not approve the application, the applicant shall have the right to appeal to the Board of Zoning Appeals. Such appeal from a decision of the Restoration Board shall be filed with the Community and Economic Development Department within 10 days of the Restoration Board's decision.

(1974 Code, § 154.052) (Ord. 26-93, passed 8-16-1993; Am. Ord. 03-02, passed 5-4-2002; Am. Ord. 32-05, passed 10-3-2005)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.053 I-1 LIGHT INDUSTRIAL DISTRICT.**

**§ 154.053 I-1 LIGHT INDUSTRIAL DISTRICT.**

(A) *Purpose.* This district is intended to provide for industrial uses having minimum impact upon the surrounding environment in areas that are suitable for such development by reason of location and the availability of adequate utility and transportation systems. Uses that can be operated in a clean and quiet manner, subject only to those regulations and performance standards necessary to prohibit congestion and for the protection of adjacent residential and business activities, are permitted. Uses which may present problematic characteristics are administered as special uses.

(B) *Uses.*

(1) *Permitted uses.*

(a) Any use whose principal function is basic research, design and/or pilot or experimental product development or technical training.

(b) Office buildings of an executive or of an administrative nature or incidental to other permitted uses.



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- (c) Sales offices and retail sales incidental to other permitted uses.
- (d) Business and industrial service facilities.
- (e) Laboratories, experimental, film, testing, research, or engineering.
- (f) Printing, publishing, binding and typesetting plants.
- (g) Warehouses and/or distribution firms.
- (h) Wholesale sales facilities.
- (i) The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to: bakery goods, business machinery, candy, clocks and toys, cosmetics, electrical and electronic products, components and equipment, food products, hardware and cutlery, and pharmaceuticals.
- (j) The manufacture, compounding, assembling, or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stone, sheet metal (excluding large stampings, such as automobile fenders or bodies) shell, textiles, tobacco, wax, wire, wood, (excluding saw and planing mills), and yarns.
- (k) Medical, dental, optical manufacturing.
- (l) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- (m) The manufacture and repair of electric and neon signs.
- (n) Light sheet metal products, including heating and ventilating equipment, cornices or eaves.
- (o) Tool, die, gauge, and machine shops.
- (p) Greenhouses.
- (q) Sexually oriented business (as defined in § 154.004.) [These uses shall also comply with the development standards contained in § 154.053(F).]
- (r) Accessory buildings and uses incidental to the principal uses. (Regulations governing accessory facilities and uses are specified in § 154.059.)
- (2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

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- (a) Electroplating.
- (b) Graphic products manufacture.
- (c) Laundries and dry cleaning plants.
- (d) Automobile service station. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(5).]
- (e) Car washes. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(11).]
- (f) Garages for storage, repair, and servicing of motor vehicles, including body repair, painting, and engine rebuilding. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(5).]
- (g) Banks including drive-in facilities. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(7).]
- (h) Restaurants, including fast food and drive-ins. [Drive-in, fast-food, carry-out and other restaurants offering such similar services shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(19).]
- (i) Motels. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(27).]
- (j) Taverns. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(8).]
- (k) Radio, television or other transmission towers and related station facilities. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(33).]
- (l) Yards of general contractors engaged in building or heavy construction; building materials storage and sales. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(10).]
- (m) Machinery and heavy equipment rental, sales and storage. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(10).]
- (n) Day-care centers serving employees of a firm located within this district. Such centers shall be completely housed within the administrative section of the respective structure. [These uses shall also comply with the development standards contained in §§ 154.122(A) and 154.122(B)(18).]

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(o) Indoor recreational facilities, such as handball courts and skating rinks.

(p) Trade and industrial schools.

(q) Other uses determined by the Planning Board to be of the same general character as the permitted or special uses previously listed and found not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust or glare or heat. In this regard, the Planning Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this zone; the cost of such expert assistance shall be borne by the applicant.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial and industrial facilities. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

(1) *Lot requirements.*

(a) Minimum lot area: none.

(b) Minimum lot frontage: 100 feet. (Or such lesser frontage as will permit compliance with the side yard and off-street parking requirements.)

(2) *Yard requirements.*

(a) Minimum front yard depth: 50 foot front yard depth shall be provided; however, if adjacent lots are developed, the average of adjoining front yard depths shall be provided if less than 50 feet. If located across the street from a Residential District, 50 feet shall be provided in any case and a landscaped screening as specified in § 154.061 shall be provided.

(b) Minimum rear yard depth:

1. Each side and rear yard shall be equal to the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided. Where a side or rear yard abuts onto a Residential District, the yard shall in no case be less than 50 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such plantings if approved by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

2. Each side and rear yard for special uses shall be equal to two times the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided. Where a side or rear yard abuts onto a Residential District, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such plantings if approved

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by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

3. Any portion of the side and rear yards in excess of 15 feet from the property line may be used for parking.

(c) Minimum side yard width on each side:

1. Each side and rear yard shall be equal to the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided. Where a side or rear yard abuts onto a Residential District, the yard shall in no case be less than 50 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such plantings if approved by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

2. Each side and rear yard for special uses shall be equal to two times the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided. Where a side or rear yard abuts onto a Residential District, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such plantings if approved by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

3. Any portion of the side and rear yards in excess of 15 feet from the property line may be used for parking.

(3) Structural requirements. Maximum building height: 45 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking and loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Sexually oriented businesses development regulations.*

(1) No sexually oriented business shall be established within 1,000 feet of any area zoned as a residential district or zoned for residential use.

(2) No sexually oriented business shall be established within a radius of 1,000 feet of any nursery school, kindergarten, day care, compulsory school, or library, whether public or private, governmental, religious or commercial, which nursery school, kindergarten, day care,

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compulsory school, or library is attended by persons under 18 years of age.

(3) No sexually oriented business shall be established within a 1,000 foot radius of any public park or public recreational facility.

(4) No sexually oriented business shall be established within a radius of 1,000 feet of any other sexually oriented business or a 1,000 foot radius of any 2 of the following establishments:

(a) Establishments for the sale of beer or intoxicating liquor for consumption on the premises.

(b) Pawn shops.

(c) Pool or billiard halls.

(d) Pinball palaces, halls, or arcades.

(e) Dance halls or discotheques.

(5) No sexually oriented business shall be established within 1,000 feet of any church.

(6) No sexually oriented business shall be located within 750 feet of the right-of-way of any divided, limited access highway including but not limited to applicable portions of Interstate 75.

(7) Advertisements, displays or other promotional materials posted or displayed at a sexually oriented business shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from any other public area.

(8) All building openings, entries, doorways, windows, and the like, at any sexually oriented business shall be located, covered, or screened in such a manner as to prevent any view into the interior of any such sexually oriented business from the exterior of the structure of any public area.

(9) No screens, loudspeakers or sound equipment shall be used by a sexually oriented business that can be seen or discerned by the public from any public area.

(10) Site plan approval required. A site plan shall be submitted to the Planning Board for approval. Such site plan shall be drawn to scale and shall graphically demonstrate compliance with the location requirements set forth herein, and compliance with all setback, landscaping, screening, parking, loading, signage, yard, and structural requirements of the I-1, Light Industrial Zone. The Planning Board shall grant approval or denial of the site plan based only on the non-discretionary technical requirements set forth in § 154.053(C) - (E) of Chapter 154 of the Tipp City, Ohio Code of Ordinances, except as modified by § 154.053(F) herein. The

Planning Board shall render its decision on whether to approve or deny a site plan for a sexually oriented business within 45 days of submission. Failure of the Planning Board to render approval or denial of a submitted site plan for a sexually oriented business within the 45 day review period shall result in the submitted site plan automatically being approved and the issuance of a zoning permit. This division (10) shall apply only to site plan approvals for sexually oriented businesses.

(11) Whether the location of a sexually oriented business satisfies the criteria of this chapter shall be determined by measuring the straight-line distance, without regard for intervening structures, from the closest exterior structural wall or section of wall enclosing the sexually oriented business to the nearest property line of the other use in question.

(G) *Supplementary regulations.* Site plan approval required. A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the location and dimensions of vehicular entrances, exits, internal circulation pattern, off-street parking and loading facilities, building locations and dimensions, storage facilities, landscaping and screening facilities.

(1974 Code, § 154.053) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-99, passed 7-19-1999; Am. Ord. 28-02, passed 8-19-2002)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.054 I-1D - LIGHT INDUSTRIAL DISTRICT.**

### **§ 154.054 I-1D - LIGHT INDUSTRIAL DISTRICT.**

(A) *Purpose.* This district is intended to provide for industrial uses having minimum impact upon the surrounding environment in presently developed industrial areas which are characterized by the presence of established industrial firms adequately served by utilities and transportation facilities. This district is primarily designed to accommodate the retention and expansion of existing industrial type uses which can be operated in a clean and quiet manner, subject only to those regulations and performance standards necessary to prohibit congestion and for the protection of adjacent residential and business activities.

(B) *Uses.*

(1) *Permitted uses.*

(a) Any use whose principal function is basic research, design and/or pilot or experimental product development or technical training.

(b) Office buildings of an executive or

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of an administrative nature or incidental to other permitted uses.

- (c) Sales offices and retail sales incidental to other permitted uses.
- (d) Business and industrial service facilities.
- (e) Laboratories - experimental, film, testing, research or engineering.
- (f) Printing, publishing, binding and typesetting plants.
- (g) Warehouses and/or distribution firms.
- (h) Wholesale sales facilities.
- (i) The manufacture, compounding, processing, packaging or treatment of such products as, but not limited to: bakery goods, business machinery, candy, clocks and toys, cosmetics, electrical and electronic products, components and equipment, food products, hardware and cutlery, and pharmaceuticals.
- (j) The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as, but not limited to: bone, canvas, cellophane cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stone, sheet metal (excluding large stampings, such as automobile fenders or bodies) shell, textiles, tobacco, wax, wire, wood, (excluding saw and planing mills), and yarns.
- (k) Medical, dental, optical manufacturing.
- (l) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- (m) The manufacture and repair of electric and neon signs.
- (n) Light sheet metal products, including heating and ventilating equipment, cornices or eaves.
- (o) Tool, die, gauge, and machine shops.
- (p) Accessory buildings and uses incidental to the principal uses.  
(Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122: Other uses determined by the Planning Board to be of the same general character as the permitted uses previously listed, including lesser commercial uses not detrimental to the district, and found not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust,

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glare or heat. In this regard the Planning Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this zone; the cost of such expert assistance shall be borne by the applicant.

(C) *Site development regulations.* (See § 154.061 for additional provisions for commercial and industrial facilities. Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

(1) *Lot requirements.*

(a) Minimum lot area: none.

(b) Minimum lot frontage: 100 feet. (Or such lesser frontage as will permit compliance with the side yard and off-street parking requirements.)

(2) *Yard requirements.*

(a) Minimum front yard depth: 25 foot front yard depth shall be provided; however, if adjacent lots are developed, the average of adjoining front yard depths shall be provided. If located across the street from a Residential District, a landscaped screening as specified in § 154.061 shall be provided.

(b) Minimum rear yard depth:

1. Each side and rear yard shall be equal to the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided, except that necessary to comply with Building Code requirements. Where a side or rear yard abuts onto a Residential District, a landscaped screening as specified in § 154.061 and/or an opaque fence may be required as determined by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

2. Any portion of the side and rear yard in excess of 10 feet from the property line may be used for parking.

(c) Minimum side yard width on each side:

1. Each side and rear yard shall be equal to the height of the principal building. If adjacent lots are industrially developed to the lot line, no side yard need be provided, except that necessary to comply with Building Code requirements. Where a side or rear yard abuts onto a Residential District, a landscaped screening as specified in § 154.061 and/or an opaque fence may be required as determined by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

2. Any portion of the side and rear yard in excess of 10 feet from the property line may be used for parking.



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(3) *Structural requirements.* Maximum building height: 45 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking and loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.* Site plan approval required. A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the location and dimensions of vehicular entrances, exits, internal circulation pattern, off-street parking and loading facilities, building location and dimensions, storage facilities, landscaping and screening facilities.

(1974 Code, § 154.054) (Ord. 26-93, passed 8-16-1993; Am. Ord. 16-99, passed 7-19-1999; Am. Ord. 07-03, passed 2-18-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.055 I-2 GENERAL INDUSTRIAL DISTRICT.**

**§ 154.055 I-2 GENERAL INDUSTRIAL DISTRICT.**

(A) *Purpose.* The intent of this District is to accommodate a broad range of industrial activities, diverse in products, operational techniques and size which have a greater potential impact upon their environment than those permitted in the Light Industrial District. Uses which may present particular problematic characteristics are administered as special uses.

(B) *Uses.*

(1) *Permitted uses.*

(a) All permitted and special uses as provided within the Light Industrial District with the exception of those uses defined as special uses within this District.

(b) Cement block and formed concrete products manufacturing.

(c) Railroad train yards, classification yards, team tracks and depots.

(d) Sawing and planing mills.

(e) Chemical products manufacturing such as drugs, paints, wood

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chemicals, and allied chemicals.

(f) Bulk storage of stone, clay, glass, brick, abrasives, tile, and related products.

(g) Fabricated metal manufacturing, including ordinance, engines, machinery, electrical equipment, transportation equipment, metal stamping, wire products and structural metal products.

(h) Meal packing.

(i) Accessory buildings and uses incidental to the principal use.  
(Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

(a) Asphalt or asphalt products, bulk storage stations for liquid fuel, petroleum products, petroleum and volatile oils.

(b) Concrete mixing plants.

(c) Bulk storage of corrosive acids and acid derivatives.

(d) Fertilizer manufacturing.

(e) Garbage or refuse reduction or transfer.

(f) Sanitary landfill.

(g) Incinerators.

(h) Glue manufacturing.

(i) Paper products manufacturing.

(j) Plastics manufacturing.

(k) Rubber processing or manufacturing.

(l) Mining, mixing, processing, and transportation of stone, sand or gravel aggregate.

(m) Manufacturing or processing of asphalt products.

(n) Soap manufacturing.

(o) Steel manufacturing.

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- (p) Junk yards and auto graveyards.
- (q) Radio, television or other transmission towers and related station facilities.
- (r) Taverns.
- (s) Airport or landing strip.
- (t) Truck terminal.
- (u) Truck stop.
- (v) Truck repair garages.
- (w) Truck sales, new and used; truck rental.
- (x) Other manufacturing, processing, or storage uses determined by the Planning Board to be of the same general character as the permitted or special uses previously listed and found not to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic, or noxious matter, or glare or heat. In this regard, the Planning Board may seek expert advice on what conditions should be imposed on a particular operation to carry out the purposes of this District; the cost of such expert assistance shall be borne by the applicant.

(C) *Site development regulations.* (Special uses shall comply with all pertinent development standards contained in §§ 154.120 through 154.122.)

(1) *Lot requirements.*

- (a) Minimum lot area: none.
- (b) Minimum lot frontage: 150 feet. (Or such lesser frontage as will permit compliance with the side yard and off-street parking requirements.)

(2) *Yard requirements.*

- (a) Minimum front yard depth: 50 feet front yard depth shall be provided; however, if adjacent lots are developed, the average of adjoining front yard depths shall be provided if less than 50 feet. If located across the street from a residential district, 50 feet shall be provided in any case and a landscaped screening as specified in § 154.061 shall be provided.
- (b) Minimum rear yard depth:

1. Each rear yard shall be at least equal to 2 times the height of the principal building. If adjacent lots are already industrially developed to the lot line, the

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rear yard requirement shall be at the discretion of the Planning Board. Where a rear yard abuts a residential district, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board. If the use is to be serviced from the rear, the yard shall be at least 50 feet deep.

2. A minimum rear yard of 100 feet shall be provided for all special uses with the exception of banks, restaurants and taverns which shall be reviewed on an individual case basis. Where a rear yard abuts a residential district, said yard shall in no case be less than 150 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board.

3. Any portion of the rear yard in excess of 15 feet from the property line may be used for parking.

### (c) Minimum side yard width:

1. Each side yard shall be at least equal to 2 times the height of the principal building.

If adjacent lots are already industrially developed to the lot line, side yard requirements shall be at the discretion of the Planning Board. Where a side yard abuts a residential district, said yard shall in no case be less than 100 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board. If the use is to be serviced from a side yard, that yard shall be at least 50 feet deep.

2. A minimum side yard of 100 feet shall be provided for all special uses with the exception of banks, restaurants and taverns which shall be reviewed on an individual case basis. Where a side yard abuts a residential district, said yard shall in no case be less than 150 feet and a landscaped screening as specified in § 154.061 shall be provided. An opaque fence may be substituted for such landscaped screening if approved by the Planning Board.

3. Any portion of a side yard in excess of 15 feet from the property line may be used for parking.

### (3) *Structural requirements.* Maximum building height: 45 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking and loading

requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for signs and location of permitted signs.

(F) *Supplementary regulations.*

(1) *Request to rezone.* A request to rezone land to General Industrial shall include a map and listing of the addresses and owners of all existing residential properties within 1,000 feet of the land. The request also must be substantiated with evidence that the broad range of allowable uses will not conflict with or adversely impact the intended function of the existing road network in the community. Access to the land must be available over arterial thoroughfares, and the capacity of such thoroughfares shall not be materially reduced by the additional traffic that can be expected to be generated by the allowable uses. Where necessary to achieve these conditions, a developer may be requested to provide additional thoroughfare improvements and dedication of extra right-of-way.

(2) *Site plan approval required.* A site plan shall be submitted to the Planning Board for approval. Such site plan shall graphically include the location and dimensions of vehicular entrances, exits, internal circulation pattern, off-street parking and loading facilities, building locations and dimensions, storage facilities, landscaping and screening facilities.

(1974 Code, § 154.055) (Ord. 26-93, passed 8-16-1993; Am. Ord. 9-99, passed 5-17-1999)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.056 PLANNED DEVELOPMENT PROVISIONS.**

### **§ 154.056 PLANNED DEVELOPMENT PROVISIONS.**

(A) *Purpose.* The overall purpose of the Planned Development zoning provisions is to permit greater flexibility in physical development requirements, and thereby encourage more creative and imaginative development design than is possible under conventional zoning provisions. Approval of such proposals will be granted, however, only upon favorable review of submitted plans for tracts suitable in location and character for the uses and structures proposed are to be planned and developed in a unified manner. Such proposals will be further evaluated, and approved only upon determination that the public health, safety and morals will not be jeopardized by a departure from the restrictions on corresponding uses in the standard zoning district.

(B) *Types of planned development.* Types of planned developments include PR (Planned Residential District), PMH (Planned Mobile/Manufactured Home Residential District), PC (Planned Commercial District), PHS (Planned Highway Service District) and POI (Planned

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Office/Industrial District). Use groupings within each district shall be governed by the requirements specified for each respective district discussed within this section.

(C) *General standards for Planned Developments.* The Planning Board shall not approve a request for a Planned Development unless it shall, in each individual case, make specific findings of facts directly based upon the particular evidence presented to it, which supports conclusions that:

(1) The Planned Development can be substantially completed within the period of time specified in the schedule of development submitted by the developer.

(2) The site will be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development and the streets and driveways on the site of the proposed development will be adequate to serve the residents or occupants of the proposed development.

(3) The development will not impose an undue burden on public services and facilities, such as utilities, fire, and police protection.

(4) The development plan contains such proposed covenants, easements, and other provisions relating to the proposed development standards, as would reasonably be required for the public health, safety and welfare.

(5) The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a Planned Development not used for structures, parking and loading areas, or accessways, shall be landscaped or otherwise improved.

(6) Natural features such as water courses, trees, and rock outcrops will be preserved, to the degree possible, so that they can enhance the overall design of the Planned Development.

(7) The layout must be designed to take advantage of the existing land contours in order to

provide satisfactory road gradients and suitable building lots and to facilitate the provision of proposed services.

(8) In any development which is primarily designed for or occupied by dwellings, all electric and telephone facilities, street light wiring, and other wiring conduits and similar facilities shall be placed underground by the developer, unless waived by the Planning Board because of technical reasons.

(D) *Procedure for approval.*

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(1) *Preapplication conference.*

(a) Prior to filing a formal application for approval of a Planned Development, the developer shall request a preapplication conference with the Planning Board. The purpose of such conference is to allow the developer to present a general concept of this proposed development prior to the preparation of detailed plans.

(b) For this purpose, the presentation shall include, but not be limited to, the following:

1. Written "letter of intent" from the developer establishing his or her intentions as to development of the land.

2. Topographic survey and location map.

3. Sketch plans and ideas regarding water supply, sewage disposal, surface drainage, and street improvements.

(c) The Planning Board shall advise the developer of the zoning requirements and City Plan which might affect the proposed development as well as the procedural steps for approval.

(2) *Preliminary plan.* The preliminary plans of the Planned Development shall be filed with the Zoning Inspector, in accordance with the submission requirements of division (N)(1) of this section. The required procedure for consideration and approval of the preliminary plan shall be:

(a) Submission of the following: Written application for approval of a Planned Development shall be made on forms and in the manner prescribed by the city. The application shall be accompanied by a fee consistent with the prevailing fee structure established by Tipp City.

(b) The Planning Board shall study material received and confer with other agencies of government as appropriate in the case to determine general acceptability of the proposal as submitted. In the course of such preliminary consideration, the Planning Board may request, and the applicant shall supply, additional material needed to make specific determinations.

(c) Following such study, the Planning Board or its staff shall hold a conference or conferences with the applicant to discuss desirable changes in the first or succeeding drafts of the preliminary development plan and report.

(d) Recommendations of the Planning Board to the applicant shall be in writing, and following any such conferences, agreements between the applicant and the Planning Board as to changes in the preliminary plan and report or other matters to be recorded

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and acknowledged by the Planning Board and the applicant. On items on which no agreement is reached, or there is specific disagreement, this fact shall be recorded and the applicant may place in the record his or her reasons for any disagreement.

(e) When the preliminary development plan and report have been approved in principle (as a whole or with reservations specifically indicated) or when the applicant indicates in writing that no further negotiations with the Planning Board are desired before proceeding, the Planning Board may schedule the proposed plan for a public hearing, following which it shall make its recommendations to Council. Such recommendations shall indicate approval, approval with reservations, or disapproval with reasons. With such recommendations the Planning Board shall transmit within 60 days the latest draft of the preliminary plan and a report submitted by the applicant, a record of agreements reached, and matters on which there was no specific agreement, including any reasons recorded by the applicant for any such disagreement.

(f) Council shall consider the preliminary plan and respective planned development zone designation after receiving the proposal from the Planning Board. Within 45 days, the Council shall, by resolution, approve the proposal, approve subject to conditions, or deny the proposal. If approved, the area of land marked shall be redesignated PR (Planned Residential District), PMH (Planned/Manufactured Mobile Home Residential District), PC (Planned Commercial District), PHS (Planned Highway Service) or PO (Planned Office/Industrial District) and shall be used only in accordance with the uses and densities shown on the Planned Development Preliminary Plan.

(3) *Final plan.* The final Planned Development Plan shall conform substantially to the preliminary plan. If desired by the developer, it may be submitted in stages with each stage reflecting a portion of the approved preliminary plan which is proposed to be recorded and developed; provided, however, that such portion conforms to all requirements of these regulations. The required procedure for approval of a final plan shall be:

(a) The final plan and supporting data as required by division (N) of this section, shall be filed with the Zoning Inspector who in turn forwards copies to the Planning Board for certification that the final plan is in conformity with these regulations and in agreement with the approved preliminary plan.

(b) Planning Board shall hold a public hearing to review the final plan. The hearing shall be held in accordance with the provisions of Article 13, Amendment. After review of the final plan and supporting data, the Planning Board shall approve or disapprove the plan within 30 days after the public hearing. Disapproval of the final plan shall include a clear statement of the reasons therefore.

(c) The Planning Board shall then forward the final plan together with their recommendations to the Council. The Council shall review the recommendations of the



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Planning Board at

the next regular meeting of the Council, and shall schedule a public hearing and take actions.

(4) *Recording of final development plan.*

(a) After approval by the Council of the final plan, the Zoning Inspector shall see that requirements of the Tipp City Subdivision Regulations have been compiled with before the Final Development Plan is presented to the Miami County Recorder for recording. The purpose of such recording is to designate with particularity the land subdivided into convenient lots as pertinent to the development as well as the dimension of other lands, not so treated, into common open area, and to designate each building or structure, as well as the use of the land in general.

(b) No Final Development Plan within the corporate limits of the city shall be so recorded unless it shall have the approval of Council inscribed thereon.

(5) *Building permit.* No building permit shall be issued by the Zoning Inspector until the Final Development Plan has been approved and duly recorded.

(6) *Certificate of occupancy.* The Zoning Inspector shall issue no certificate of occupancy until all utilities have been accepted by the city in accordance with the final development plan.

(E) *Changes in the Planned Development.* A Planned Development shall be developed only according to the approved and recorded final plan and supporting data together with all recorded amendments and shall be binding on the applicants, their successors, grantees and assigns and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Development as set forth therein.

(1) *Major changes.* Changes which alter the concept of intent of the Planned Development including increases in the number of units per acre, change in location or amount of nonresidential land uses, more than 15% modification in proportion of housing types, significant redesign of roadways, utilities or drainage, may be approved only by submission of a new preliminary plan and supporting data, and following the "preliminary approval" steps and subsequent amendment of the final Planned Development Plan.

(2) *Minor changes.* The Zoning Administrator, upon notifying the Planning Board, may jointly approve minor changes in the Planned Development which do not change the concept or intent of the development, without going through the "Preliminary approval" steps. Minor changes are defined as any change not defined as a major change.

(F) *Schedule of construction.* The Planned Board shall consider the planned development subject to revocation if construction falls more than 1 year behind the schedule filed

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with the final plan.

(G) *Effect of denial of a Planned Development.* No application for a Planned Development, which has been denied wholly or in part by the Planning Board and Council shall be resubmitted for a period of 1 year from the date of said order of denial, except on the grounds of new evidence or proof of change of conditions found to be valid by the Planning Board and Council.

(H) *Revocation.* In any case where a Planned Development has not been established (substantially under way) within 1 year from the date of granting thereof, then, without further action by the Planning Board, the Planned Development authorization thereof shall be null and void.

(I) *PR Planned Residential District.*

(1) *Policies underlying use of zone.* This district is intended to provide a good deal of flexibility in the arrangement and design of residential dwellings, based upon a unified development plan conceived and carried out for an entire area. Within this district, appropriate and reasonable population density is maintained while a variety of dwelling unit types is permitted. Natural features such as topography, trees and drainage ways are encouraged to remain in their natural state to the degree possible. Such developments are generally characterized by a significant proportion of usable open space, unified design concept with particular attention devoted to the periphery of the development, with the objective being the compatibility of the development with its surroundings.

(2) *Permitted uses.*

(a) Those uses included as permitted and accessory uses in R-1 through R3 Residential Districts developed in a unified manner in accordance with the approved development plan.

(b) Convenience establishments as accessory uses which have been established as necessary for the proper development of the community and to be so located, designated and operated to serve primarily the needs of the persons within the Planned Development if specifically approved as part of the Planned Development Plan. Uses shall be generally limited to those uses permitted in the CB District, with no direct access or advertising signs for such uses to be visible from the exterior of the development.

(c) Such convenience establishments and their parking area shall not occupy more than 5 % of the total area of the development.

(d) No separate building or structure designed or intended to be used, in whole or part, for business purposes within a Planned Residential Development shall be constructed prior to the construction of not less than 30% of the dwelling units proposed in the

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development plan.

(3) *Area requirements.* The minimum land area required for a Planned Residential Development shall be 5 acres. This area requirement may be varied at the discretion of the Planning Board and City Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(4) *Density requirements.*

(a) Any combination or cluster of housing units is permitted, provided that the average lot area per family or dwelling unit contained in the site, exclusive of the area of street rights-of-way, and commercial area, will not exceed the following net overall densities:

1. Four dwelling units per acre for single family residential developments.

2. Six dwelling units per acre for developments containing a combination of single family and 2-family units.

3. Ten dwelling units per acre for a development containing a combination of single family, 2-family and multi-family units.

4. Twelve dwelling units per acre for multi-family residential developments.

(b) The above density requirements may be varied at the discretion of the Planning Board and City Council if it can be demonstrated that a variance is necessary to achieve an improved site design and that surrounding neighborhoods and public facilities will not be adversely affected.

(5) *Site design.*

(a) All housing shall be sited to preserve privacy and to ensure natural light.

(b) Lot widths may be varied to permit a variety of structural designs. It is also recommended that setbacks be varied. Eighty percent of housing units should be situated to abut upon common open space or similar areas. A clustering of dwellings is encouraged.

(c) In order to maintain and preserve the open common areas privacy fences shall be prohibited in any front, rear, and side yard that abuts an open common area or park.

(d) Housing styles shall be varied including the design, orientation,  
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roof lines, colors, garage orientations and exterior finishes in accordance with the covenants, deed restrictions and homeowners agreements approved by the city.

(6) *Structure spacing.* A minimum of 15 feet shall be maintained between unattached principal structures.

(7) *Length.* There shall be no continuous structure of apartments, attached dwellings, or townhouses containing more than the following respective maximum numbers of side by side dwelling units:

Apartments	12 units
Attached dwellings other than townhouses	8 units
Townhouses	6 units

(8) *Height.* The height of any residential structure within a planned unit development shall not exceed 35 feet, unless it can be demonstrated that an additional height is required, with provision of suitable open space to protect adjacent structures from adverse reduction of light and air.

(9) *Setback and screening.* A setback of 50 feet shall be provided along the entire perimeter of the development and retained in natural woods, or be suitably landscaped with grass and/or ground cover, shrubs and trees. Planning Board and City Council may reduce the 50-foot setback with appropriate conditions and restrictions, based upon the individual projects. Projects located adjacent to Commercial or Industrially zoned areas shall provide screening facilities comprising landscaping, walls or both which will provide suitable protection to the residential development as adjudged by the Planning Board and City Council. Screening facilities shall not obscure traffic visibility within 50 feet of an intersection.

(10) *Common open space.* A minimum of 25% of the land in any planned residential development shall be reserved for permanent common open space and recreational facilities for the residents or users of the area being developed. At the City's option, the required permanent common open space area may be donated to the City for a public park/recreational facility or other public purpose. Only areas having minimum dimensions of 50 feet by 100 feet shall qualify for computation as usable open space. The Planning Board and City Council may allow for the aggregation of common open space.

(11) *Access control.* See § 154.080 for access control requirements.

(12) *Private streets.* No private streets shall be permitted.

(13) *Parking requirements.* See §§ 154.070 through 154.081 for off-street

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parking requirements.

(14) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(15) *Supplemental district requirements.* See § 154.061 for any pertinent additional requirements.

(16) *Construction trailer.* One construction trailer shall be allowed to be used within the development during the construction of housing units. The developer of the project shall submit his or her request for said trailer along with a site plan to the Community and Economic Development Department, which shall indicate the specific lot on which the 1 construction trailer will be placed. The construction trailer shall not be used as a sales trailer. The construction trailer must be removed upon the completion of the subdivision. This provision supersedes the provisions listed in § 154.060(C)(1)(e).

(J) *PMR Planned Mobile/Manufactured Home Residential District.*

(1) *Policies underlying use of zone.* This district is intended to permit the development of mobile/manufactured home parks in association with other residential development types while maintaining a reasonable population density and by providing for the unique requirements for this type of development. The provisions of this district are established to assure that the site design and arrangement in relation to other areas together with the provision of associated facilities result in an attractive, orderly and efficient residential environment of sustained desirability in harmony with adjacent areas.

(2) *Permitted uses.* Mobile home parks:

- (a) Mobile homes (not self-propelled vehicles).
- (b) Manufactured homes.

(3) *Accessory uses.*

(a) Coin-operated laundry, laundry and dry cleaning pick-up stations for use of tenants only. No external sign of any nature whatsoever shall be permitted.

(b) Other accessory uses, buildings or structures customarily incidental to the aforesaid use.

(c) On-site manufactured home sales. The sale of manufactured homes within a mobile/manufactured home park or subdivision shall be a special use having 1 year duration. Said use shall be reviewed at the end of the first year for possible extension for an additional year, in total representing a maximum 2 year duration. Such sales areas shall be well screened from the residential section of the park or subdivision and shall be located at the

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periphery of the site. All signs used for advertising shall be unobtrusive to the surrounding property.

(d) *Neighborhood commercial facilities.* In mobile home parks 50 acres or more, neighborhood commercial facilities such as markets, barbers, beauty shops, doctors office, and the like may be planned in conjunction with a mobile home park but may not be physically occupied until the park is 75% occupied by residents.

(4) *Minimum floor area.* Individual mobile/manufactured homes located within the PMH District shall have a minimum floor area of 600 square feet.

(5) *Area requirements.* Each mobile/manufactured home park shall have a minimum gross site area of 5 acres.

(6) *Density requirements.* Gross density for a mobile/ manufactured home park shall not exceed 7 dwelling units per acre.

(7) *Minimum lot size.* The minimum lot size within mobile/manufactured home parks or subdivision shall be determined by the size of the residential unit occupied lot area, ratios, building setback and separation, and parking requirements.

(8) *Occupied lot area ratio.* A mobile or manufactured home shall not occupy an area in excess of 1/3 of its respective lot area. The total occupied area of a mobile or manufactured home and its accessory buildings on a lot shall not exceed 2/3 of the lot area.

(9) *Utilities.*

(a) *Public utilities.* Each mobile/manufactured home park shall be served by public water and sewer systems.

(b) *Underground utilities.* In each mobile/manufactured home park all wires, cables, and lines providing telecommunication, including cable television, and electric utility services and connections of such utility systems to buildings and light poles in such parks, shall be located underground.

(c) Mobile/manufactured home parks shall meet all pertinent requirements of the Ohio Department of Health and the Miami County Health District.

(10) *Landscaping.* In all mobile/ manufactured home parks, the following landscape provisions shall apply:

(a) Along each property line, and within the perimeter setback area, there shall be provided screen fencing, landscape planting or a landscaped berm or a combination thereof as specified within subdivision (12) of this division.

(b) Trees of at least 1 inch caliber shall be installed on both sides of all

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streets within the mobile/manufactured home park at a spacing of 50 feet between trees.

(11) *Setback requirements.* The following setback requirements for all mobile/manufactured homes located in a mobile/manufactured home park shall apply:

- (a) From all perimeter lot lines - see subdivision (12) of this division.
- (b) From any mobile or manufactured home located in the mobile home park - 20 feet, however end-to-end clearance may be reduced to 10 feet.
- (c) From any community building - 50 feet.
- (d) From any public or private street located within the park - 20 feet.

(12) *Perimeter requirements.* A perimeter setback with respective screening requirements shall be provided which is adequate to protect the residential use in the development and, in any case, shall not be less than the following:

- (a) Where the adjoining land use (existing or permitted) is other similar or higher- density use or is a collector street, a distance of 30 feet containing a 90%, visually solid, year-round landscaped buffer 6 feet in height.
- (b) Where the adjoining land use is an arterial street, a residential use of lower density, or a nonresidential use, protection shall be provided by providing a distance of 40 feet containing berms, walls, solid or louvered fencing, open fencing with appropriate planting, or, a visually solid, year-round landscape buffer, 6 feet in height. The Planning Board may waive all or part of the perimeter landscaping requirements if, due to the nature of the existing topography or other existing conditions, it is unreasonable to require a wall, fence, or screen.

(13) *Required open space.* A minimum of 10% of the gross site area shall be set aside as reserved for usable open space. Said open space shall be in 1 or more parcels, not less than 1 acre each. The minimum dimension of said open space shall be 200 feet in any direction. For the purposes of this section, **USABLE OPEN SPACE** shall be construed to mean parks, common open areas, and areas containing a combination of community service buildings (clubhouses, swimming pools, and the like) and outdoor recreation areas.

(14) *Access control.* Each mobile/manufactured home park shall have direct access to a collector or arterial thoroughfare. See § 154.080 for additional access control requirements.

(15) *Private streets.* A mobile/manufactured home park shall have an entrance drive from a public street, and access to individual units shall be from private paved drives within the site. A paved walk shall be located along at least 1 side of each drive. The width and design of the entrance drive and access drives shall be adequate to accommodate fire protection

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vehicles and equipment as determined upon review by the Planning Board and Council. The following pavement widths are provided as a guideline in their regard:

28 feet - (1-way traffic with parking)

20 feet - (1-way traffic, no parking)

36 feet - (2-way traffic with parking)

28 feet - (2-way traffic, no parking)

(16) *Parking requirements.* Two paved, off- street parking spaces having a minimum area of 200 square feet each shall be provided for each mobile/manufactured home site. Said parking space shall be located either on the home site, behind the front setback area, or in a common parking area within the mobile/manufactured home park.

(17) *Signs.* Signs within the mobile/manufactured home development shall be limited to an identification sign containing the name of the park not to exceed 32 square feet, a name plate attached to each home, which is no longer than 1 square foot, directional signs indicating the location of utility buildings, including management office, parking area and common recreation areas, and traffic control signs.

(18) *Miscellaneous requirements.*

(a) *Lighting.* Appropriate lighting shall be provided along all interior roadways, and walkways. All lights shall be so positioned and shaded to avoid a glare on adjoining properties.

(b) *Drainage.* Each mobile/ manufactured home space shall be so constructed to

provide adequate storm water draining from ramps, patios, and all walls and foundations of the home to the roadway.

(c) *Fuel supply.* Where fuel is stored in outdoor storage tanks, they shall be supported by a concrete base and screened from view of surrounding home spaces and the street.

(d) *Enclosed undercarriage.* All mobile homes located in mobile/manufactured home parks shall be enclosed from the bottom of the structure to the ground.

(e) *Stand.* Each mobile home site shall be provided with a stand consisting of a solid concrete slab or 2 concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons. When concrete ribbons are used, the



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area between the ribbons shall be filled with a layer of crushed rock.

(f) *Foundation.* A manufactured home must be attached to a foundation in accordance with plans prepared by a registered engineer providing for vertical loads, uplift, and lateral forces in compliance with the city's building code provisions. The foundation must either be a slab or contain a solid perimeter wall in all installations in which the finished floor is more than 6 inches above finished grade at any point.

(g) *Refuse containers.* All refuse containers shall be screened from view of surrounding homes spaces and the street.

(19) *Supplemental district requirements.* See § 154.061 for any pertinent additional requirements.

(20) *Subdivision regulation compliance.* All mobile/manufactured home park proposals intending to sell individual lots and thus subject to regulation as a subdivision shall comply with all pertinent provisions of the city's Subdivision Regulations with the exception of requirements or standards which are superseded by provisions of this chapter.

(K) *PC Planned Commercial District.*

(1) *Policies underlying use of zone.* This district is provided in recognition that many commercial establishments seek to develop within a unified commercial area, usually under single ownership and control, and typically called "shopping centers". Within the premises of the zone, such centers would have all necessary services and facilities comprehensively provided in accordance with an approved development plan. Provisions of this zone are formulated to achieve harmoniously designated structures upon a well landscaped site, achieving a high degree of pedestrian-vehicular separation, all of which would be compatible with surrounding land uses.

(2) *Permitted uses.* Those uses included as permitted and accessory uses in OS, CB, HS and GB Business Districts.

(3) *Arrangement of commercial uses.*

(a) Commercial buildings and establishments shall be planned as groups having common parking area and common ingress and egress points in order to reduce the number of potential accident locations at intersections with thoroughfares.

(b) The plan of the project shall provide for the integrated and harmonious design of buildings, facilities for internal traffic circulation, landscaping, and such other features and facilities as may be necessary to make the project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

(4) *Area requirements.* The minimum land area for a Planned Commercial

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Development shall be 3 acres except for the Garber Drive area previously zoned PCC, as identified on the zoning map.

(5) *Setback and screening.*

(a) A setback of 50 feet shall be provided along the entire perimeter of the

development, except where it adjoins a Business or Industrial District in which case setback and screening requirements shall be at the discretion of the Planning Board. Where situated adjacent to a residentially zoned area, a minimum of 20 feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen shrubs not less than 4 feet in height at the time of planting.

(b) Screening facilities shall not obscure traffic visibility within 50 feet of an intersection.

(c) Vehicular access through such landscaped strip when adjacent to residential areas shall be permitted only for convenience of residents of adjoining residential areas, and not for use by the general public.

(6) *Access control.* See § 154.080 for access control requirements.

(7) *Private streets.* A private street where designated on a development plan shall meet all the design and construction requirements of the City Subdivision Regulations. The requirement for street width, and for curb and gutter, may be waived upon review by the Planning Board and Council.

(8) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(9) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(10) *Supplemental district requirements.* See § 154.061 for any pertinent additional requirements.

(L) *PHS Planned Highway Service District.*

(1) *Policies underlying use of zone.* The purpose of this district is to provide for commercial establishments offering accommodations, supplies, and services to local as well as through automobile and truck traffic. Such uses should be located adjacent to heavily traveled

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cross-country roadways, particularly new freeway interchanges. Development within the Highway Service District is pre-planned and controlled to assure that the operational characteristics are not in immediate and direct conflict with the function of adjacent land use areas or the adjacent thoroughfare system. Establishments with this district can and should be a visual asset to the community because of their size and prominent location. Parking, storage, and accessory operations are to be screened. The relationship among establishments within this district is to be compatible, each having adequate space for the operation performed.

### (2) *Permitted uses.*

- (a) Auto and truck rental.
- (b) New and used car and truck sales (cars in operable condition only).
- (c) Gasoline service station.
- (d) Auto wash.
- (e) Trailer sale and rental.
- (f) Motel.
- (g) Restaurant.
- (h) Drive-in restaurant and fast food establishments.
- (i) Bowling lanes.
- (j) Church and other buildings for the purpose of religious worship.
- (k) Accessory buildings incidental to the principal use which do not include any activity conducted as a business.
- (l) Farm equipment sales and service.
- (m) Automobile and truck service and repair.
- (n) Drive-in theater.
- (o) Governmentally or privately owned and/or operated parks, playground, amusement and recreation facilities, golf course.
- (p) Governmentally owned or operated building or facility.

### (3) *Arrangement of commercial uses.*

- (a) Commercial buildings and establishments shall be planned as groups having common parking areas and common ingress and egress points in order to reduce

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the number of potential accident locations at intersections with thoroughfares.

(b) The plan of the project shall provide for the integrated and harmonious design of buildings, and for adequate and properly arranged facilities for internal traffic circulation, landscaping and such other features and facilities as may be necessary to make and project attractive and efficient from the standpoint of the adjoining and surrounding existing or potential developments.

(4) *Area requirements.*

(a) *Minimum lot area.* A minimum land area for a Highway Service Development shall be 40,000 square feet, exclusive of highway right-of-way; however, lot size shall be adequate to provide the yard space and buffering required by these regulations.

(b) *Minimum lot width.* A minimum lot width of 300 feet is required at the front setback line.

(5) *Structure spacing.* A minimum of 20 feet shall be required between adjacent principal buildings.

(6) *Setback and screening.*

(a) A setback of 50 feet shall be provided along the entire perimeter of the development, except where it adjoins a Business or Industrial District in which case setback and screening requirements shall be at the discretion of the Planning Board. Where situated adjacent to a residentially zoned area, a minimum of 20 feet along the exterior property line shall be planted with an evergreen hedge or dense planting of evergreen shrubs not less than 4 feet in height at the time of planting. Open storage, service, and loading areas shall be screened by walls, fences, or other enclosures at least 6 feet but not more than 8 feet in height. These walls, fences, or enclosures shall have an opaqueness of 75% or more. Screening facilities shall not obscure traffic visibility within 50 feet of an intersection.

(b) Vehicular access through such landscaped strip when adjacent to residential areas shall be permitted only for convenience of residents of adjoining residential areas, or for access to dwelling units within the Commercial District and not for use by the general public.

(c) Said sight-proof screening provisions shall appear on the site plan submitted for a building permit, and shall be physically constructed when the business is occupied. These screening requirements may be waived if the business is effectively screened by natural topography. The Planning Board shall determine by whatever means it deems necessary to make such determination, and grant such relief from this standard in writing to the proposed user of the land.

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(7) *Frontage regulation.*

(a) A 10 foot wide planting strip shall be provided along the right-of-way line.

(b) Driveways shall not be permitted within 600 feet of an interchange ramp.

(c) Each business shall be limited to 2 driveways. The maximum width of which shall not exceed 30 feet and which shall be defined by concrete or rolled curbing. Driveways opening on traffic lanes leading to the intersection of surface streets at which the business is situated shall be located as to provide not less than 40 feet spacing between the intersection formed by the adjacent street right-of-way lines and the nearest side of such driveway. Driveways opening on traffic lanes leading away from the intersection shall be located so as to provide not less than 20 feet spacing between the intersection formed by the adjacent street right-of-way lines and the nearest side of such driveways, measured along the right-of-way line. In the event the lineal frontage of site exceeds 500 feet, 3 driveways may be permitted.

(d) Whenever feasible, the applicant is encouraged to design and construct a common service drive to accommodate individual access drives within the development. When located upon an arterial thoroughfare, the Planning Board may require such service drives be incorporated within the plan, and be constructed or performance bonds in lieu of such construction be presented to the county prior to the issuance of a building permit for the proposed structures.

(8) *Maximum building height.* Maximum building height shall be limited to 35 feet.

(9) *Supplementary regulations.*

(a) All public utilities shall be placed underground unless precluded by underground soil conditions.

(b) Series of flags, flashing and moving signs, fluttering devices, strings of lights, and similar attention gathering devices shall be prohibited.

(c) Exterior lighting shall be directed inward and away from abutting properties.

(d) All driveways, customer parking areas, and service areas shall be paved with asphaltic or concrete surfacing and shall be so graded and drained as to dispose of all surface water accumulated within the area.

(10) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for

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construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(11) *Loading and unloading areas.* See §§ 154.070 through 154.081 for off-street loading and unloading requirements.

(12) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(13) *Supplemental district requirements.* See § 154.061 for any pertinent additional requirements.

### (M) *POI Planned Office/Industrial District.*

(1) *Policies underlying use of zone.* The provisions of this district are provided in recognition that many industrial establishments seek to develop within unified industrial areas having all necessary services and facilities comprehensively provided in accordance with a predetermined development plan. As in the Planned Commercial Zone, provisions of this zone are formulated to encourage a high degree of coordinated development upon well landscaped premises. Particular attention is devoted to design of the periphery of the development with the objective of compatibility with surround land uses.

(2) *Permitted uses.* Those uses included as permitted and accessory uses in the OS Office Service and I-1, Industrial District.

(3) *Arrangement of industrial uses.* A planned industrial area shall provide for the harmony of buildings and a compact grouping in order to economize in the provision of such utility services as are required. Thoroughfares shall be kept to a minimum throughout a planned industrial area in order to reduce through traffic.

(4) *Area requirements.* The minimum land area for a Planned Industrial Development shall be 10 acres.

(5) *Structure spacing.* A minimum of 50 feet shall be required between adjacent buildings.

(6) *Maximum lot coverage.* No more than 50% of the site shall be covered by buildings.

(7) *Maximum building height.* No building shall exceed 45 feet in height although certain parts of buildings or types of structures may be permitted to exceed this height as per § 154.061.

(8) *Setback and screening.*

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(a) The following setbacks shall be provided along the entire perimeter of the respective types of developments, except where it adjoins a Business or Industrial District, in which case setbacks and screening requirements shall be at the discretion of the Planning Board:

Industrial park	100 feet
Mixed office/industrial park	75 feet
Office park	50 feet

(b) Where situated adjacent to a residentially zoned area, a minimum of other office/ industrial parks along the exterior property line shall be retained in natural woods, or be suitably landscaped with a dense planting of evergreens not less than 4 feet in height at the time of planting. Such landscaping shall be 50% or more opaque when viewed horizontally between 2 feet and 8 feet above average ground level. A suitably designed fence or wall may be substituted for such screen plantings at the discretion of the Planning Board, if in certain cases natural plantings are deemed unfeasible. Screening facilities shall not obscure traffic visibility within 50 feet of an intersection.

(9) *Private streets.* No private streets shall be permitted.

(10) *Access control.* See § 154.080 for access control requirements.

(11) *Parking requirements.* See §§ 154.070 through 154.081 for off-street parking requirements.

(12) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during and individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(13) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(14) *Supplemental district requirements.* See § 154.061 for any pertinent additional requirements.

(N) *Submission requirements for Planned Development proposals.*

(1) *Preliminary plan stage.*

(a) *Application.* An application for a preliminary planned unit development shall be filed with the Zoning Administrator by at least 1 owner or lessee of property for which the planned unit development is proposed. At a minimum, the application

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shall contain the following information filed in triplicate:

1. Name, address, and phone number of registered surveyor, registered engineer, and/or urban planner assisting in the preparation of the preliminary development plan.

2. Name, address, and phone number of applicant.

3. Legal description of property.

4. Description of existing use.

5. Zoning districts(s).

(b) *Material to be submitted with application.*

1. Identification of all property owners within the proposed district, evidence of unified control of the entire area of the district, tentative agreement of all owners to proceed with development according to plans and timing schedule approved if the proposed amendment is passed, and to bind their successors in title to abide by any final commitments made, and evidence of financial capability to complete the development according to plan or to provide adequate sureties for completing.

2. Map or maps indicating the relation of the proposed district to the surrounding area. As appropriate to the development proposed, such map or maps shall demonstrate access to major streets, and show the approximate location and sizes of existing public sewers, waterlines and storm drainage systems and other utility systems and installations which will be expected to serve the development. In the case of planned developments, to contain housing; location of schools and nearby commercial facilities shall be indicated.

3. Topographic data map drawn to a scale of 100 feet to 1 inch by a registered surveyor and/or engineer showing:

- a. Boundary lines - bearings and distances;
- b. Easements - location, width, and purpose;
- c. Wooded areas, streams, lakes, marshes, and any other physical conditions that affect the site;
- d. Ground elevations on the tract for land that slopes less than  $\frac{1}{2}\%$ , show 1 foot contours; for land that slopes more than  $\frac{1}{2}\%$ , show 2 foot contours;
- e. If deemed necessary, subsurface conditions on the tract, including the location and results of tests made to ascertain the



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conditions of subsurface soil, rock and ground water, and the existing depth of ground water.

4. A preliminary development plan and report, with maps at a scale of 100 feet or less to the inch, including as appropriate to the proposed development, the following information, presented in generalized form:

a. Proposed land uses and approximate height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. Proposals containing residential units shall specify the number of housing units by size and type proposed within the initial phase of the proposal or within the overall development if the development is not be staged.

b. Proposed automotive and pedestrian circulation patterns, including streets by type (major, collector, or minor) width, public or private, and pedestrian ways. Existing or platted streets proposed to be vacated.

c. Major off-street parking areas.

d. Proposed parks, playgrounds, school sites, pedestrian parkways and other major open spaces as well as the general form of organization proposed to own and maintain any common open space.

e. General location of utilities, installations and easements.

f. If development is to be in stages, indication as to the order and timing of development, and demonstration that each stage, when completed, would compliment any completed earlier, and would form a reasonably independent unit even though succeeding stages were delayed.

g. Proposals for expediting provision of public facilities, utilities or services where lacking or unlikely to be available when needed for the planned development, or for providing suitable private facilities, utilities or services. A report shall be provided, if appropriate in a particular development, containing proposals for improvement and continuing maintenance and management of any private streets.

h. The substance of covenants, grants and easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.

### (2) *Final development plan.*

(a) Final development plans and reports shall include:

1. A map or maps in the form required by the Subdivision

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Regulations, with such modifications and additions as required concerning such items as building sites when used as a substitute for lots, common open space not dedicated for public use, and other matters as appropriate to planned developments generally or to the specific planned development. Similar modifications of standards contained in the Subdivision Regulations or in other regulations or policies applying generally may be reflected in such maps and report if the Planning Board shall find and shall certify, after consultations with other agencies of government as appropriate in the specific case, that the public purposes of such regulations or policies are as well or better served by specific proposals of the final plan and reports.

2. A general site and land use plan for the planned development as a whole, indicating sub-areas for phased development, if any, and showing location and use of structures and portions of structures in relation to building site lines, building sites reserved for future use and uses for which sites are reserved, automotive and pedestrian circulatory networks, principal parking areas, open space not in building sites and use for which it is intended, and such other matters as are required to establish a clear pattern of the relationships to exist between structures, uses, circulation and land.

(b) Agreements, contracts, deed restrictions, and sureties. The applicant shall guarantee the installation of the public improvements specified in the final development plan through 1 of the following methods:

1. Filing a performance and labor and material payment bond in the amount of 110% of the estimated construction cost as determined by the city.

2. Depositing or placing in escrow or certified check, cash, or other acceptable pledge, in the amount of 110% of the construction cost as approved by the city.

(1974 Code, § 154.056) (Ord. 26-93, passed 8-16-1993; Am. Ord. 14-94, passed 6-6-1994; Am. Ord. 2-96, passed 1-15-1996; Am. Ord. 18-01, passed 10-15-2001; Am. Ord. 46-02, passed 12-2-2002; Am. Ord. 02-05, passed 1-18-2004)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.057 CD CONSERVATION DISTRICT.**

#### **§ 154.057 CD CONSERVATION DISTRICT.**

(A) *Purpose.* This zone is established for the following purposes: to protect undeveloped land located outside the present limits of urban services from indiscriminate development until urban services can be extended, enabling growth to be preplanned in a coordinated and efficient manner; to extend protection from urban encroachment to active agricultural enterprises and areas particularly suitable for preservation of an open space

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environment in the case of those areas possessing distinctive geologic and/or scenic values.

### (B) *Uses.*

#### (1) *Permitted uses.*

- (a) Agricultural activities (excluding animal sales lots and feed lots).
- (b) One-family dwellings.
- (c) Hunting preserves.
- (d) Wildlife refuges and game preserves.
- (e) Accessory buildings incidental to the principal use which do not include any activity conducted as a business. (Regulations governing accessory facilities and uses are specified in § 154.059.)

(2) *Special uses.* The following special uses are subject to review in accordance with §§ 154.120 through 154.122.

- (a) Home occupations.
- (b) Cemeteries.
- (c) Homesites less than 10 acres but not less than 1 acre.
- (d) Churches and other buildings for the purpose of religious worship.
- (e) Governmentally owned and/or operated buildings or facilities.
- (f) Soil removal, sand and gravel extraction operations.
- (g) Kennels.
- (h) Outdoor advertising billboards.
- (i) Governmentally owned and/or operated parks, playgrounds.
- (j) Recreational uses other than those governmentally owned and/or operated such as: swimming pools, outdoor rifle and skeet shooting ranges, camps and retreats, and riding facilities.

### (C) *Site development regulations (permitted uses only).*

#### (1) *Lot requirements.*

- (a) Minimum lot area: 10 acres.

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(b) Minimum lot width: 300 feet.

(2) *Yard requirements.*

(a) Minimum front yard depth: 100 feet.

(b) Minimum rear yard depth: 100 feet.

(c) Minimum side yard width on each side: 50 feet

(3) *Structural requirements.* Maximum building height: 35 feet.

(D) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements. The application of the design standards for construction of the parking and loading facilities may be modified during an individual site plan review by the Planning Board. Variance from the minimum number of spaces and other parking or loading requirements shall be subject to the process for variances as contained in § 154.175.

(E) *Signs.* See §§ 154.090 through 154.106 for size and location of permitted signs.

(F) *Supplementary regulations.* A site plan shall be submitted to the Planning Board for approval for any non-residential structures or uses. Such site plan shall graphically include the locations and dimensions of vehicular and pedestrian entrances, exits, driveways, walkways, and vehicular circulation patterns to and from the site; building locations and dimensions, off-street parking spaces and landscaping.

(1974 Code, § 154.057) (Ord. 26-93, passed 8-16-1993; Am. Ord. 18-01, passed 10-15-2001)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.058 FA FLOOD HAZARD AREA OVERLAY DISTRICT.**

**§ 154.058 FA FLOOD HAZARD AREA OVERLAY DISTRICT.**

(A) *Purpose.*

(1) Certain areas of the City are subject to periodic inundation which could result in the loss of life and property, the creation of health and safety hazards, the disruption of commerce and government services, and the extraordinary and unnecessary expenditure of public funds for flood protection and relief. Such flood losses are caused by the cumulative effect of obstructions in natural flood hazard areas, which cause increases in flood heights and velocities. Uses and structures that are inadequately floodproofed, elevated, anchored, or otherwise protected from flood damage also contribute to such flood loss.

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(2) The Flood Hazard Area overlay district is established to protect the natural flood storage capacity by minimizing obstructions within the floodway and floodplain, by requiring uses vulnerable to flood damage to be protected and/or floodproofed, and to ensure that potential buyers are notified that property is in an area of special flood hazard.

### (B) *Boundaries of FA Overlay District.*

(1) *Areas of special flood hazard.* Areas of special flood hazard have been identified in scientific and engineering reports by the Federal Emergency Management Agency entitled *Flood Insurance Study, County of Miami, Ohio*, dated July 19, 1982; and by the Soil Conservation Service of the United States Department of Agriculture in *Flood Plain Management Study, Miami County, Ohio*, dated December, 1992; and by the Federal Emergency Management Agency in its *City of Tipp City, Ohio Flood Insurance Rate Map (FIRM)*, dated July 18, 1985. These studies, with accompanying maps are hereby adopted by reference and declared to be a part of this chapter for the purposes of establishing the boundaries of the FA Flood Hazard Overlay District.

(2) *Modifications to FA boundaries.* Areas investigated by engineering study and identified by flood easements on approved subdivision plats shall be included in the FA Flood Hazard Overlay District. Where such studies and easements refine the information available for previously existing flood hazard areas, the resulting flood easements shall act to reduce, enlarge, or relocate the boundaries of the FA District. Such modifications shall be effective upon passage of the ordinance approving the plat, and shall not require amendment of the Zoning Map through the process described in this chapter.

### (C) *Standards.*

(1) *Development standards.* All construction, development, remodeling, change of use, and change of grade of properties in the FA District shall comply with the standards of Chapter 153 of this code of ordinances, as currently enacted and as may be hereafter amended.

(2) *Permit processing.* The Development Permit required by § 153.15 shall not be issued until site development approval has been obtained from the Planning Board, in accordance with the requirements for review of special uses, as further described in this chapter.

(1974 Code, § 154.058) (Ord. 26-93, passed 8-16-1993; Am. Ord. 31-96, passed 11-4-1996)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.059 ACCESSORY USES.**

**§ 154.059 ACCESSORY USES.**

(A) *Permitted accessory uses (Residential Districts).* The following accessory uses are permitted in each Residential District.

- (1) Private garages or carports not to exceed the following area:
  - (a) For a single-family dwelling: 800 square feet.
  - (b) For multiple-family dwellings: 600 square feet.
- (2) A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building, shall exceed 200 square feet in gross floor area.
- (3) A swimming pool (not located within a completely enclosed building, and containing or normally capable of containing water to a depth at any point greater than 1½ feet, bath house and other recreational facilities intended and used solely for the enjoyment of the occupants of the principal use of the property on which it is located and subject to required provisions under division (D) of this section.
- (4) Patios and open porches subject to required provisions under division (D).
- (5) Earth satellite stations as regulated under division (D).
- (6) A child's playhouse, tree house or birdhouse.
- (7) Statuary, arbors, trellises, barbecue equipment, glad poles, fences, play equipment, nonmechanical laundry drying equipment, walls and hedges.
- (8) Fallout shelters.
- (9) Any other structure or use customarily found in conjunction with and required for full utilization and enjoyment of the principal use; and which meets the definition of accessory use as stated in this chapter.
- (10) Recreational equipment subject to the following conditions of § 154.074.

(B) *Permitted accessory uses (Conservation, Business and Industrial Districts).*

- (1) In a Conservation, Business or Industrial District, any use which is customarily found in conjunction with and required for the full utilization and economic viability of the principal use which meets the definition of accessory use as stated in this chapter, and which complies with the applicable standards of the district in which it is located is permitted.

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(See § 154.057 for additional standards for ground satellite stations within nonresidential areas.)

(2) Outdoor vending machines, facilities for recycled goods or materials, and the like.

(3) These facilities may be permitted in all business and industrial districts upon obtaining a certificate of use subject to the following requirements.

(a) No such use or facility shall be placed within the street right-of-way, within an interior drive, or in a location which will interfere with required driveway site distance.

(b) Placement of the facility will not result in the reduction of the number of parking spaces required to serve the principal use(s) on the site.

(c) The subject facility or use shall be maintained in good operating order and appearance.

(d) Signs on vending machines located so as to be seen from the exterior of a structure shall be considered for identification purposes only, and shall be limited to an overall size of 3 square feet. Only 2 such vending machines per structure shall be permitted outside the structure. Such signage shall be included in the calculations of the overall signage permitted per establishments of the respective zoning district in which located.

(4) Wireless telecommunications facilities may be permitted as an accessory use upon a lot, subject to the following requirements:

(a) Towers are regulated by the Special Use standards of §§ 154.120, 154.121, 154.122, and 154.122(B)(33), and shall not be approved as accessory structures.

(b) An antenna may be attached to a nonresidential structure subject to the following requirements:

1. The antenna shall not extend more than 20 feet above the roof of the existing building or top of the existing structure.

2. Any pole or other support for such antenna shall be set back a minimum of 1 foot from the edge of the roof for each 1 foot of antenna height above such roof.

3. Any separate equipment shelter shall comply with the setback and accessory regulations of the district and not be located above ground within any required front or side yard.

4. Vehicular access to any equipment shelter shall be via the existing driveway and circulation system shall be paved and shall conform with the construction

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and design standards for parking lots.

(5) Earth satellite stations in nonresidential districts. Within non-residential districts, the following shall apply to ground satellite stations:

(a) Such ground stations shall contain no graphic messages or advertising.

(b) Ground-mounted stations shall be considered accessory structures and shall comply with the following conditions and requirements:

1. Such stations not mounted on the roof of a primary or accessory structure shall be located to the rear of the principal building or structure on the property where the station is located and shall not exceed an above-ground height of 14 feet.

2. Such stations shall not be located within 50 feet of a public right-of-way or within 30 feet of a rear or side lot line and shall be not closer than 50 feet from a lot line or a residential district.

3. Such stations shall be mounted in a concrete base in line with grade and only metal supports of galvanized construction shall be used.

4. Wiring between such stations and any other structure shall be placed underground in accordance with applicable city codes and standards.

5. Such stations shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

(c) Roof-mounted stations shall comply with the following conditions and requirements:

1. Such stations shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, tower or spires.

2. Such stations mounted on the roof of a primary or accessory structure shall not exceed a height of greater than 12 feet above the roof on which they are mounted. The height shall be measured vertically from the point at which such station is mounted on the roof.

3. Such stations shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

4. Such stations mounted on a roof shall be set back a minimum of 1 foot from the edge of the roof for each 1 foot of station height above such roof.



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(C) *Accessory uses not permitted - Residential and Office Districts.* None of the following shall be permitted as an accessory use in a Residential or Office District:

(1) Overnight parking or outdoor storage of trucks over 1 ton rated capacity, buses or mobile homes.

(2) Outdoor storage, unless specifically permitted by the specific zoning district regulations.

(D) *Standards for accessory buildings in Residential Districts (See Appendix for graphic examples of dimensional standards).*

(1) An accessory building may be erected as an integral part of a principal building or it may be connected thereto by a breezeway or other similar structure, provided that no such accessory building may be erected or used as a stable or primarily for the keeping of animals or birds.

(2) An accessory building may be erected detached from the principal building. No detached accessory building shall be erected in any required yard except a rear yard, and shall not occupy more than 35% of the area of the required rear yard. For computing the percentage of occupancy of a rear yard, as required herein, if a detached accessory building is connected to the principal building by a breezeway, the ground area of such breezeway shall be considered as a part of the accessory building and be included in the computation.

(3) A detached accessory building shall not exceed 14 feet in height nor be located closer to an alley than 10 feet if access is from an alley.

(4) A detached accessory building shall be at least 10 feet from any dwelling situated on the same lot.

(5) A detached accessory building not integrally joined to another accessory building shall be located at least 10 feet from such other accessory structure.

(6) A detached accessory building shall be at least 3 feet from all lot lines.

(7) Any accessory building, if not located in the rear yard, shall be an integral part of or connected with the principal building to which it is accessory, and shall be so placed as to meet all yard and court requirements for a principal building of the same height and other dimensions as such accessory building.

(8) On a corner lot abutting in the rear or the side lot in a Residential District, any accessory building or part thereof within 25 feet of the common lot line shall not be closer to the side street lot line than the least depth of the front yard required on such other lot fronting the side street, and in no case shall any part of such accessory building be closer to the side street lot lines than the least width of the side yard required for the principal building to which it is

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accessory.

(9) No accessory use or structure in any R District except an off-street parking area shall be located no less than 60 feet from the front property line, unless such use or structure is contained within or constitutes an integral part of the principal building. However, if the owner of a corner lot, with approval of the Board of Zoning Appeals designates the longer street lot line as the front lot line, then the requirement of this section shall apply to establish the permitted distance of an accessory building from only the shorter street lot line. Patios, open porches and car ports may be located in side and rear yards provided they are not closer than 3 feet to any adjacent property line. If located closer than 8 feet, they shall be screened by an evergreen hedge or fence not less than 4 feet in height and maintained in good condition. In case of a corner lot, no patios or porches shall be closer to the side street lot line than the least depth required for such side yard.

(10) Swimming pools. No private swimming pool, exclusive of pools less than 1½ feet in depth and portable swimming pools with a diameter less than 12 feet or with an area of less than 100 square feet, shall be allowed in any residential district, except as an accessory use, and unless it complies with the following conditions and requirements.

(a) The pool is intended and is to be used solely for the enjoyment of the occupants and guests of the principal use of the property on which it is located.

(b) The pool may not be located closer than 15 feet to any property line, and such location shall be in accordance with all pertinent provisions of § 154.061 and shall be measured from the water line. Accessory buildings shall maintain the minimum side yard required. Any walks or paved areas adjacent to the pools shall be considered as patios for the purpose of this chapter and shall conform to the provisions of this section.

(c) The swimming pools, or the entire rear yard of the property on which it is located, shall be walled or fenced to prevent uncontrolled access by children from the street or from adjacent properties. Said fence or wall shall be 6 feet in height and maintained in good condition with a gate and lock, and shall be in accordance with the provisions of the Unified Building Code as well.

(11) Tennis courts. Tennis courts and other similar playing courts may be located in any rear yard with the fence located no closer than 5 feet of any property line, provided the location of such courts are in accordance with all pertinent provisions of § 154.061. Such courts may be fenced with a chain link fence located around the perimeter of the court, but any fence over 6 feet in height shall be planted with large shrubs in sufficient quantities to screen and filter the view of the fence from neighboring properties.

(12) Earth satellite stations in Residential Districts. Within the Residential Districts, the following provisions shall apply to ground satellite stations:

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- (a) Such ground stations or antennas shall be for the personal use of residents.
- (b) Such ground stations or antennas shall contain no graphic message or advertising.
- (c) Ground-mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
  - 1. Such stations or antennas not mounted on the roof of a primary accessory structure shall be located to the rear of the principal building or structure and shall not exceed an above grade height of 14 feet.
  - 2. Such stations or antennas shall be subject to the side and rear yard set back requirements as applicable to accessory buildings contained in this division.
  - 3. Such stations or antennas shall be mounted in a concrete base in line with grade and only metal supports of galvanized construction shall be used.
  - 4. Wiring between such station and any other structure shall be placed underground in accordance with applicable city codes and standards.
  - 5. Such stations or antennas shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.
  - 6. All installations must include screening provisions located along the antenna's nonreception window axis and low-level ornamental landscape provisions along the reception window axis of the antenna's base. With the exception of the reception window axis, the antenna shall be screened a height of 6 feet at ground level from any adjacent lot or street, public or private. Although natural landscaping and plantings that provide year-round screening are the preferred method for screening, architectural features that harmonize with the elements and characteristics of the property may be used when natural landscaping is impractical. In all cases, the screening plan must be approved.
- (d) Roof mounted stations or antennas shall be considered accessory structures and shall comply with the following conditions and requirements:
  - 1. Such stations or antennas shall be mounted directly on the roof of a primary or accessory structure and shall not be mounted on appurtenances such as chimneys, towers or spires.
  - 2. Such stations or antennas mounted on the roof of a primary or accessory structure shall not exceed a height of greater than 3 feet above the roof on which they are mounted. The height shall be measured vertically from the point at which such station

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or antenna is mounted on the roof.

3. The diameter of any dish antenna mounted upon the roof of a primary or accessory structure shall not exceed 3 feet.

4. Such stations or antennas shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

(e) A Certificate of Zoning Compliance shall not be required for earth satellite stations with dishes that have a normal diameter of 1.5 feet or less. When such stations are attached to the ground or the roof of a primary or an accessory structure they shall comply with this Title 15. When such stations are attached to the envelope of a primary or of an accessory structure they shall comply with the following conditions and requirements:

a. Such stations shall not be mounted on the front yard side of the structure. In the case of a corner lot or through lot, no satellite dish shall be mounted on any street side of the structure.

b. Such stations mounted on the exterior wall of a house shall not extend more than 18 inches into any required side yard.

c. Such stations shall not extend into any easement or to any point within 3 feet of any property line.

d. Such stations shall be designed to withstand a wind force of up to 70 miles per hour without the use of supporting guy wires.

e. Wiring between such stations and any other structure shall be placed underground in accordance with applicable city codes and standards.

f. A Certificate of Appropriateness shall be obtained prior to installation of any such station on properties located in the RA - Old Tippecanoe City Restoration and Architectural District.

(14) Accessory fences, walls and hedges. The intent of these provisions is to outline the regulations for accessory fences, walls and hedges in residential districts. Such structures are permitted in order to: provide for orderly transition between land uses; protect and screen private property; give security and privacy to residents; and provide a physical and visual barrier; reduce wind and modify climate; define property lines; create and define outdoor living space; and generally improve the aesthetic appearance of a site. Where buffer yard or other screening requirements pursuant to the provisions of § 154.061 differ from the provisions of this section, the more stringent requirements shall apply.

(a) *Front yards.*

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1. Hedges not to exceed 4 feet in height may be located in any front yard, but shall be subject to the traffic visibility requirements of § 154.061 for a corner lot.

2. An ornamental fence or ornamental wall may be located in any front yard or court, as follows:

a. The height of any ornamental fence or wall may not exceed 4 feet above the ground at any point.

b. Any ornamental fence or wall, as permitted in this subsection, shall be so constructed as to provide a ratio of solid portion to open portion not to exceed 1 to one, the proportion of solid area to open area to be determined in elevation.

c. Such fence or wall may not be located closer than 3 feet to the front lot lines.

d. No wire-type fence may be used.

e. Such ornamental fence or wall on a corner lot shall be subject to the traffic visibility requirements of § 154.061.

(b) *Rear and side yards.* A fence, wall or hedge may be located in any rear or side yard, provided that:

1. The height of the fence, wall or hedge may not exceed 6 feet above the ground at any point.

2. A fence or wall not to exceed 10 feet in height may be permitted surrounding tennis courts in any rear yard, provided the provisions of this division.

3. Any such fence or wall shall be so constructed as to provide a ratio of solid portion to open portion not to exceed 6 to 1 the portion of solid area to open area to be determined in elevation.

(c) *Retaining walls.* Retaining walls shall not project more than 1 foot above the surface of the ground supported by such walls, unless such projection exceeding 1 foot complies with the applicable requirements of this section.

(d) *Security fences.* No barbed wire, other sharp-pointed material or electrically charged material shall be used in the construction of a fence, except to fence potentially hazardous areas or for

security purposes in high risk areas, and only upon approval of the Tipp City Police Chief. In no case shall such materials be used for fences for single family homes.

(e) Other permissible locations. Fences, walls or hedges may be

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erected on public recreation areas, school grounds and in Industrial Districts, and are not subject to the requirements of this section, but no such fence, structure or planting shall be erected or maintained within 20 feet of the corner so as to interfere with traffic visibility across the corner.

(15) *Garage sales.* Temporary garage sales in residential districts in order to allow residents to sell excess personal property are permitted, provided that a temporary use permit is obtained and the following conditions are met:

- (a) Each garage sale shall not exceed 4 calendar days in length from start to finish.
- (b) There shall be at least 1 month time lapse between each garage sale.
- (c) Only 3 garage sales shall be permitted per calendar year at any individual location.
- (d) No person conducting a garage sale under the provisions of this chapter shall sell or offer for sale any food or beverage for consumption on the premises. Food or beverage may be provided for such consumption at no cost to the consumer, but only if a permit is obtained in advance from the Board of Health.
- (e) No fee or other charge shall be imposed upon members of the public attending any such sale.
- (f) One nonilluminated sign not exceeding 4 square feet in size, no more than 3 feet in height above grade may be displayed on the property where the sale is being held.
- (g) Off-premises directional-type signs are prohibited.
- (h) Balloons, streamers, special lighting, noise making devices or other similar advertising displays or notices shall not be used to call attention to the garage sale.
- (i) Public auctions and moving sales shall be permitted for not more than 1 week per calendar year.
- (j) Attachment to utility poles and traffic signs is prohibited. No sign shall be placed in a curb lawn area.

(1974 Code, § 154.059) (Ord. 26-93, passed 8-16-1993; Am. Ord. 5-98, passed 2-2-1998; Am. Ord. 14-98, passed 5-4-1998)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.060 TEMPORARY USES.**

**§ 154.060 TEMPORARY USES.**

(A) *Intent.* Temporary uses shall be permitted in applicable zone districts by the grant of an occupancy permit issued by the Planning Board in accordance with the requirements of this section.

(B) *General provisions.*

(1) The duration of the temporary period is stated hereinafter, provided, however, renewal of such permit may be requested.

(2) Temporary uses shall be subject to all the regulations of the applicable zone district.

(C) *Permitted temporary uses.* Permits may be issued for the following temporary uses, provided that they meet these requirements and are not otherwise in conflict with the provisions of this chapter.

(1) *Uses.*

(a) Carnival or circuses are permitted in any Conservation, Commercial or Industrial District; however, no structure or equipment shall be within 500 feet of any residential property line. Maximum length of permit shall be 15 days.

(b) Christmas tree sales are permitted in any district. Maximum length of permit for display and open lot sales shall be 45 days.

(c) Contractor's office and construction facilities are permitted in any district where use is incidental to a construction project. The structure shall be located on the lot on which construction takes place and shall be removed once construction ceases.

(d) Events of public interest shall be permitted in any district. Such events may include but are not limited to outdoor concerts, theater, auctions, and non-profit organization sponsored festivals.

(e) Real estate sales offices and/or model homes shall be permitted in any district provided that a preliminary plat for such development has been approved by the Planning Board and no change in title takes place. Any such unit shall conform to all requirements for residential uses for the district in which it is located. Maximum length of permit shall be 1 year. Offices shall be removed upon completion of the development of the subdivision.

(f) Religious tent meetings may be permitted in any district.

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Maximum length of permit shall be 30 days.

(g) Seasonal merchandise, such as plants, garden supplies, pumpkins, fruit, vegetables, and the like may be sold outdoors within the Highway Service, General Business, and Conservation Districts. Permits will be for up to a 100-day period and must be renewed if longer duration is desired. Such activities shall be placed in such location that will not interfere with access drives into or within the site, nor will reduce space for required off-street parking facilities. Such facilities shall maintain a 30 foot setback from all adjacent thoroughfare rights-of-way.

(h) Searchlights drawing attention to a particular event or use shall be permitted for 7 days or less. No searchlight shall shine into any residential district or use, nor shall it produce glare into any residential district or use. Searchlight beams shall be displayed at an angle no lower than 60 degrees above the horizontal.

(i) [Reserved]

(j) Any other use, temporary in nature, which the Zoning Administrator deems as beneficial to the public good and which does not impair the public health, safety and welfare.

(2) *Additional regulations.* A carnival or circus, religious tent meeting, tent theater, horse show or exhibition, and events of public interest shall be subject to the following unless otherwise provided in subdivision (1) above.

(a) Documentation from the Health Department of Miami County that adequate arrangement for temporary sanitary facilities has been insured must be provided.

(b) No permanent or temporary lighting shall be installed without an electrical permit and inspection.

(c) All uses shall be confined to the dates specified in the permit.

(d) Hours of operation shall be confined to those specified in the permit.

(e) The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within 30 days after the closing event. A cash bond for a minimum of \$25 and not to exceed \$5,000, as determined by the Zoning Administrator, shall be posted or a signed contract with a disposal firm shall be required as a part of the application for a zoning certificate to ensure that the premises will be cleared of all debris during and after the event.

(f) Public parking for the exclusive use of the facility shall be provided, and a stabilized driveway to the parking area shall be maintained. It shall be the



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responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking.

(g) Traffic control arrangements required by the Tipp City Police Department in the vicinity of major intersections shall be arranged by the applicant.

(h) Serving of alcoholic beverages shall not be permitted without a permit from the Ohio Liquor Commission.

(i) A cash bond for a minimum of \$25 and not to exceed \$5,000 shall be posted with the City to insure the repair of any damage resulting to any public right-of-way as a result of the event.

(1974 Code, § 154.060) (Ord. 26-93, passed 8-16-1993; Am. Ord. 23-05, passed 8-15-2005; Am. Ord. 03-06, passed 2-21-2006)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.061 SUPPLEMENTAL REGULATIONS.**

#### **§ 154.061 SUPPLEMENTAL REGULATIONS.**

In addition to all regulations specified in §§ 154.040 through 154.058 and in other sections of this chapter, the provisions of divisions (A) through (M) inclusive shall be used for interpretation and clarification.

(A) *Setback requirements for corner lots.* On a corner lot the principal building and its accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located. A rear yard shall be provided along at least 1 line of a corner lot, without preference.

(B) *Visibility at intersections.* On a corner lot in any district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ and 10 feet above the center line grades of the intersecting streets in the area bounded by the right-of-way lines of such corner lots and a line joining points along such street lines 50 feet from the point of intersection.

(C) *Front yard exceptions.* In any "R" District, where the average depth of at least 2 existing front yards on lots within 100 feet of the lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this chapter, the required depth of the front yard on such lot shall be modified. In such case, this shall not be less than the average depth of said existing front yards, or the average depth of existing front yards of the 2 lots immediately adjoining, or, in the case of a corner lot, the depth of the front yard on the lot

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immediately adjoining; provided, however, that the depth of a front yard on any lot shall be at least 10 feet including all projections but not required to be more than 50 feet.

(D) *Corner lots.* The area of a corner lot shall be 20% greater than the minimum area required for an interior lot. When the principal building is located with its greatest depth on the long side of a corner lot, the required rear yard may be reduced to a minimum of 20% of the average lot depth; but in no case shall the shortest distance, measured horizontally between any part of a building, and the rear lot line, be less than 20 feet.

(E) *Double frontage lots.* Buildings on lots having frontage on 2 nonintersecting streets need not have a rear yard if an equivalent open space is provided on the lot in lieu of such required rear yard; applicable front yards must be provided however, on both streets.

(F) *Yard requirements for multi-family dwellings.* Multi-family dwellings shall be considered as 1 building for the purpose of determining front, side, and rear yard requirements. The entire group as a unit shall require 1 front 1 rear and 2 side yards as specified for dwellings in the appropriate district. Each individual building shall meet all yard requirements for the appropriate district as though it were on an individual lot.

(G) *Exceptions to height regulations.* The height limitations contained in this subchapter do not apply to any structure in a C District, nor to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy except where the height of such structures will constitute a hazard to the safe landing and take-off of an aircraft at an established airport.

(H) *Projections into required yards.*

(1) Chimneys, flues, sills, pilasters, cornices, eaves, gutters and other similar features may project into a required side or rear yard a maximum of 18 inches.

(2) Front yard: no structure may project into a required front yard, however, unroofed porches and steps may extend from the dwelling into the required front yard a maximum of 10 feet.

(3) No structure may project into a required side yard except that, where a single lot under 1 ownership existed in a residential district at the time of passage of this chapter and such lot is of insufficient width to meet the side yard requirements of this chapter the Board of Appeals may grant a minimum variance to permit the construction of a 1-family residence.

(I) *Residential access drives.* Access drives within residential districts shall maintain a minimum setback distance of 6 feet from adjacent properties.

(J) *Conversion of dwelling to more units.* A residence may not be converted to

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accommodate an increased number of dwelling units unless:

- (1) The district is zoned for 2-family or multi-family use as applicable.
- (2) The yard dimensions still meet the yard dimensions required by the new structures in that district.
- (3) The lot area per family equals the lot area requirements for new structures in that district.
- (4) The floor area per dwelling unit is not reduced to less than that which is required for new construction in that district.
- (5) The conversion is in compliance with all other relevant codes and resolutions.

(K) *Minimum net floor area for residences.* Residential units shall meet or exceed the following sizes by respective type of unit:

- |    |                             |                        |
|----|-----------------------------|------------------------|
| 1. | R1 - Open Space Residential | 2,000 sq. ft.          |
| 2. | R1A - Suburban Residential  | 1,600 sq. ft.          |
| 3. | R1B - Suburban Residential  | 1,200 sq. ft.          |
| 4. | R1C - Urban Residential     | 1,000 sq. ft.          |
| 5. | All other districts         |                        |
|    | SINGLE FAMILY               | 1,000 sq. ft.          |
|    | (where applicable)          |                        |
|    | TWO FAMILY                  | 800 sq. ft. per unit   |
|    |                             | (1 & 1½ story)         |
|    |                             | 1,000 sq. ft. per unit |
|    |                             | (2 & 2 ½ story)        |
|    | MULTI-FAMILY                |                        |
|    | 1 bedroom                   | 550 sq. ft. per unit   |
|    | 2 bedroom                   | 750 sq. ft. per unit   |
|    | 3 bedroom                   | 950 sq. ft. per unit   |

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4 bedroom

1,150 sq. ft. per unit

(L) *Parking of disabled vehicles.*

(1) The parking of a disabled vehicle within a residential district for a period of more than 1 week shall be prohibited except that such vehicle may be stored in an enclosed garage or other accessory building provided that no business shall be conducted in connection therewith while such vehicle is parked or stored.

(2) No junk motor vehicle shall remain on the premises in any districts uncovered for more than a period of 1 week except in an authorized junk yard or scrap metal processing facility.

(3) All junk motor vehicles except as noted in subdivision (2) shall be covered by being housed in a garage or other suitable structure or shall be removed from the property.

(4) After receipt of notice no junk or disabled motor vehicle shall remain uncovered for a period of more than 10 days, each subsequent period of 30 days constitutes a separate violation of this chapter.

(M) *Trash collection facility.*

(1) A trash collection facility shall include a large container such as a dumpster or a small container such as a garbage can, bag or other similar container. No trash collection facility shall be located or stored in the front yard of a premises.

(2) A small trash container(s) may be placed at the public right-of-way during the normal trash collection day.

(3) A large trash collection facility shall be situated in a permanent location and placed on a concrete pad (3000 psi minimum). A dumpster pad shall be of a dimension that will allow a dumpster to sit entirely on the pad and to permit the front wheels of a trash disposal truck to reset on the pad while emptying said dumpster.

(4) If a site plan contains a large exterior trash collection facility such as a dumpster, this area shall be screened so as to not be visible from a public right-of-way or an adjacent property.

(5) All such screens shall be of durable wood construction or of masonry type material, compatible in color and design with the principal structure.

(N) *Required landscaping and buffering.* The landscaping and buffering requirements of these regulations are intended to provide the various land uses permitted with the best compatibility and integration with one another possible. Landscaped and/or mechanical screening helps mitigate problems associated with noise, pollution, light and privacy and also

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allows for an easier transition between different types of uses. *(Editor's Note: Refer to Appendix C for Bufferyard Illustrations)*

(1) Buffering shall be required as follows:

(a) Where an industrial district is adjacent to a residential district, a Type A buffer shall be provided by the industrial uses.

(b) Where an industrial district is adjacent to a business district, a Type B buffer shall be provided by the industrial uses.

(c) Where a business district is adjacent to a residential district, a Type B buffer shall be provided by the business uses.

(d) Where a multi-family district is adjacent to a single family residential district, a Type C buffer shall be provided by the multi-family uses.

(e) As may be required for certain other situations such as special uses, variance conditions, and the like.

(2) Buffer types.

(a) *Opaque buffer, Type A.* A Type A buffer is the most dense buffer required. This buffer is to be completely opaque from the ground to 6 feet above the ground. Buffering shall be provided by plant material and/or some type of mechanical barrier and/or an earth berm. Plant material shall reach desired maturity within 2 years of planting and shall provide the same level of buffering year round.

(b) *Semi-opaque buffers Type B.* Type B buffer is the intermediate buffer required. This buffer is to be completely opaque from the ground to 3 feet above the ground and at least 50% opaque from 3 feet to 6 feet above the ground. Buffering shall be provided by plant material and/or some type of mechanical barrier and/or an earth berm. Plant material shall reach desired maturity within 2 years of planting and shall provide the same level of buffering year round.

(c) *Light buffer, Type C.* Type C buffer is the least intense buffer required. This buffer is to be at least 30% opaque from the ground to 6 feet from the ground. Buffering shall be provided by plant material and/or some type of mechanical barrier and/or an earth berm. Plant material shall reach desired maturity within 2 years of planting and shall provide the same level of buffering year round.

(3) Maintenance. It shall be the responsibility of the property owner to maintain the required buffer yard in good condition and to replace plant material as necessary to ensure the required buffer density.

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(4) Height of screening:

(a) Visual screening walls, fences or planting shall be at least 5 feet, 6 inches (5'6") high except in required front yards where the maximum height shall not exceed 3 feet.

(b) Visual screening wall, fences or plantings, in the required front yard where the maximum height shall not exceed 3 feet above the street grade which is within 25 feet of the intersection of any street right-of-way lines or of any projected street right-of-way.

(c) Height of screening should be sufficient to accomplish its design, purpose, that is, sound, visual, or debris without exceeding above limitations.

(5) Depth of width of screening. Screening for purposes of absorbing or deflecting noise shall have a depth of at least 15 feet of dense planting or a solid masonry wall in combination with decorative plantings.

(6) Protection. Whenever required screening is adjacent to parking areas or driveways such screening shall be protected by bumper blocks, posts or curbing to avoid damage by vehicles. All screening shall be trimmed and maintained in good condition and free of advertising.

(7) All tree plantings and planting screens required by this chapter shall be installed prior to occupancy or commencement of use. Where compliance with the preceding sentence is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay, but shall issue no permanent zoning compliance certificate or certificate of occupancy until completion of all required plantings.

(8) Mounding specifications.

(a) Mounding provided in lieu of or in combination with walls, fences, and/or evergreen plantings shall consist of a strip of land as wide as necessary to obtain a maximum slope of 3 to 1 (angle or repose).

(b) Mounding may include rocks and other excavated materials, but 1 foot of dirt covered by 6 inches of topsoil shall be provided over the entire mounding. Trees, shrubs, wood, and other non- compactable items shall not be used in the construction of mounding.

(c) The Planning Board shall approve the height and width of any required or provided mounding.

(d) No mounding will be allowed in any required utility easements, except for perpendicular utility easement crossings. Mounding shall provide adequate access to

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utility easements adjacent to the mounding.

(e) Mounding shall be planted with a ground cover suitable to prevent erosion, and shall be maintained by the private property owner, in conformance with code, on which the mound rests. Trees may also be planted on the mounding.

(f) A difference in elevation between areas requiring screening does not constitute an existing earth mound and shall not be considered as fulfilling any screening requirement.

(g) The drainage patterns shall be considered, maintained and/or modified only with the approval of the City Engineer, when mounding is used.

(h) The property on which the mound is located is responsible for the maintenance of the mound including but not limited to grass cutting, tree trimming/replacement, etc. A deed restriction shall be shown on the final plat about the maintenance responsibility.

(O) Environmental requirements. No land or building in any district shall be used or occupied in any manner creating dangerous, injurious, noxious, or otherwise objectionable conditions which could adversely affect the surrounding areas or adjoining premises, except that any use permitted by this chapter may be undertaken and maintained if acceptable measures and safeguards are taken to reduce dangerous and objectionable conditions to acceptable limits, as established by the following requirements:

(1) *Air pollution.* Air pollution shall be subject to the requirements and regulations established by the Ohio Environmental Protection Agency and the Regional Air Pollution Control Agency of the Miami County, Ohio Combined General Health District.

(2) *Erosion.* No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties.

(3) *Fire and explosion hazards.* Adequate safety devices shall be provided where there are activities involving burning or storage of flammable or explosive materials, adequate safety devices shall be provided at any point. Adequate safety devices against the hazards of fire and explosion and adequate fire fighting and fire suppression equipment and devices, standard in the industry shall be provided. Burning of waste materials in open fire is prohibited.

(4) *Fissionable, radioactivity or electrical disturbance.* No activities shall be permitted which utilize fissionable or radioactive materials if their use results at any time in the release or emission of any fissionable or radioactive material into the atmosphere, the ground, or sewerage systems, and activities shall be permitted which emit electrical disturbance affecting the operation at any point of any equipment other than that of the creator of such disturbances.

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(5) *Glare and heat.*

(a) Any operation producing intense light or heat, such as high temperature processes like combustion or welding, shall be performed within an enclosed building and shall not be visible beyond any lot line bounding the premises.

(b) Welding that is required for exterior construction of a structure shall be exempt from these regulations.

(c) No exterior lighting shall be positioned so as to extend glare onto an adjacent property or a public right-of-way. (See subdivision (6) below.)

(6) *Exterior lighting requirements.*

(a) *General design.* Due consideration shall be given to the number, size, character, location, and orientation of all exterior lighting fixtures; with particular reference to traffic safety, glare, and compatibility and harmony with adjoining and nearby property, and the character of the area.

(b) *Intensity.* The level of illumination shall be low so as to present a soft and subdued appearance to the property, with a minimum of 2 lumens of light per square foot of parking lot surface.

(c) *Beam spread.* The beam spread of light fixtures shall be designed so that the effect on adjacent properties shall be minimal.

(d) *Glare.* No light fixtures shall be permitted which appear as glare from any public right- of-way.

(e) *Color.* White and yellow shall be the only permitted illumination colors.

(f) *Movement.* The movement of light fixtures while they are producing illumination shall be prohibited.

(g) *Sign illumination.* See §§ 154.090 through 154.106 of this chapter.

(7) *Liquid or solid wastes.*

(a) No discharge at any point into any public sewer, private sewerage disposal system, stream, or into the ground, of any materials of such nature or temperature as can contaminate any water supply, interfere with bacterial processes in sewage treatment, or otherwise cause the emission of dangerous or offensive elements, shall be permitted, except in accordance with minimum standards approved by the Miami County Health Department, the Ohio Department of Health, the Ohio Environmental Protection Agency, or such other



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governmental agency as shall have jurisdiction over such activities.

(b) The use of dumpsters or other types of reasonably accessible waste containers for the disposal of potentially dangerous liquid or solid waste materials shall not be permitted.

(c) The storage of large quantities of toxic material shall be prohibited.

(8) *Critical materials within aquifer protection overlay district.* Any commercial or industrial establishment using, storing or disposing of materials listed within the Critical Materials list (see Appendix) shall be administered as a special use. A special use permit shall be based upon satisfactory compliance with all requirements of Tipp City ordinance which pertains to the use of storage of hazardous materials.

(9) *Noise.* Objectionable noise as determined by the Zoning Administrator which is due to volume, frequency, or best shall be muffled or otherwise controlled. Air raid sirens and related apparatus used solely for public purposes are exempt from this requirement as are farm related activities and temporary construction noise during the daytime.

(10) *Vibration.* No uses shall be located and no equipment shall be installed in such a way to produce intense, earth-shaking vibrations which are discernible without instruments at the property lines of the subject premises. Farming, excavation activities and temporary construction activities conducted during the daytime are exempt from this requirement.

(11) *Enforcement provisions.* The Zoning Enforcement Officer, prior to the issuance of a zoning permit, may require the submission of statements and plans indicating the manner in which dangerous and objectionable elements involved in processing and in equipment operations are to be eliminated or reduced to acceptable limits and tolerances.

(12) *Standards and measurement procedures.* Standards and measurement methods and procedures for the determination of the existence of any dangerous and objectionable elements shall conform to applicable standards and, measurement procedures published by the American Standards Association, Inc., New York, the Manufacturing

Chemists Association, Inc., Washington, D.C., the United States Bureau of Mines, the Ohio Environmental Protection Agency, Miami County Health District, and other similarly recognized organizations.

(P) *Home occupations.*

(1) *General provisions.*

(a) A home occupation shall be permitted when said occupation conducted on residentially used premises is considered customary and traditional, incidental to

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the primary use of the premises as a residence, and not construed as a business.

(b) Permitted home occupations shall be of a personal service nature limited to domestic crafts and professional service, including but not limited to:

1. Such domestic crafts as dressmaking, millinery, sewing, weaving, tailoring, ironing, washing, custom home furnishings work carpentry work and furniture repair.

2. Such professions as law, medicine, architecture, engineering, planning, real estate, insurance, notary public, manufacturer's agent, clergy, writing, painting, photography, and tutoring, provided, however, the service is limited to advice and consultation and the premises are not used for the general practice of the profession.

3. Home occupations also include, but are not limited to architectural service, consulting service, data processing, direct sale product distribution (Amway, Avon, Creative Memories, Pampered Chef, and the like), flower arranging, interior design consultant typing/word processing, writing, computer programming, telephone sales, internet/web page services, billing services, household cleaning services, typing services, day care, food catering and handicrafting.

(c) For the purposes of this chapter, real estate and insurance offices, clinics, doctor's offices, barber shops and beauty parlors, dress shops, millinery shops, tourist homes, animal hospitals, and kennels, trailer rentals, among others, shall not be deemed to be permitted home occupations unless such home occupations meet the requirements of this section.

(d) Permitted home occupations shall be subject to all the regulations of the applicable zone district.

(e) Permitted home occupations shall not affect adversely the residential character of the zone district or interfere with the reasonable enjoyment of adjoining properties.

(2) *Standards.*

(a) The primary use of the structure of dwelling unit shall remain residential and the operator of the home occupation shall remain a resident in the dwelling unit.

(b) The operator conducting the home occupation shall be the sole entrepreneur, and he or she shall not employ any other person other than a member of the immediate family residing on the premises.

(c) No structural additions, enlargements, or exterior alterations changing the residential appearance to a business appearance shall be permitted.

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(d) No more than 25% of the floor area of any 1 story of the dwelling unit shall be devoted to such home occupations.

(e) Such home occupations shall be conducted entirely within the primary building or dwelling unit used as a residence.

(f) No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.

(g) No provision for extra off-street parking or loading facilities, other than the requirements and permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway to serve such home occupations shall be permitted.

(h) No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminating, non-flashing announcement plate, indicating not more than the name and address of the resident. Said plate shall be attached flat against the wall of the residence and shall not exceed 1 square foot in total surface area.

(i) No stock-in-trade or commodities, other than those prepared, produced or created on the premises by the operator of the home occupation, shall be kept or sold on the premises.

(j) No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises, or violate the general performance standards of this § 154.061.

(3) *Fees.* Permit and any other fees as determined by Council are posted in a fee schedule available through the Community and Economic Development Department. The permit fee is payable upon receipt of the home occupation permit, and shall be the fee charged for Planning Board Site Plan and Application Review Filing Fee.

(1974 Code, § 154.061) (Ord. 26-93, passed 8-16-1993; Am. Ord. 22-94, passed 7-5-1994; Am. Ord. 23-94, passed 7-5-1994; Am. Ord. 14-02, passed 4-15-2002; Am. Ord. 06-06, passed 2-21-2006)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT REQUIREMENTS / § 154.062 WO WELLHEAD OPERATION DISTRICT.**

**§ 154.062 WO WELLHEAD OPERATION DISTRICT.**

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(A) *Purpose.* It is the purpose of the Wellhead Operation District (sometimes referred to as the WO District) to safeguard the public health, safety and welfare of the customers of protected public water supplies and to protect the community's potable water supply against contamination by regulating land use and the storage, handling, use and/or production of regulated substances as defined in § 154.004. This district will be shown on the Zoning Map of Tipp City at the location of the city's existing and/or proposed public wells.

(B) *Determination of applicability.* It shall be the responsibility of any person owning real property and/or owning or operating a business within the City to make a determination of the applicability of this section as it pertains to the property and/or business, and failure to do so shall not excuse any violations of this section.

(C) *Uses.*

(1) *Permitted uses.* Permitted uses of land and buildings shall be only those hereinafter listed. No building or zoning lot shall be devoted to any use other than such a use, with the exception of uses lawfully established on the effective date of this section (non-conforming uses), and special allowed in accordance with the provisions of this division.

(a) Municipal water supply: Municipal water supply, treatment, storage and operations facilities in accordance with the City's plan(s) for water supply and treatment.

(b) Recreation: Public parks, playgrounds and community centers.

(2) *Special uses.* The following uses may be conducted only if specifically authorized as special uses in accordance with the provisions in § 154.122, and § 154.199.

(a) Public utility uses:

1. Electric and telephone substations;
2. Gas regulator and meter station buildings; and
3. Electric and communication transmission towers and structures.

(b) Residential uses: Single family detached dwellings.

(D) *Site development regulations.*

(1) Lot requirements:

- (a) Minimum lot area: 8 acres.
- (b) Minimum lot frontage: 60 feet.

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(2) Yard requirements:

- (a) Minimum front yard depth: 50 feet.
- (b) Minimum rear yard depth: 50 feet.
- (c) Minimum side yard depth: height of building/structure.

(3) Structural requirements. Maximum building height: 55 feet.

(E) *Parking and loading requirements.* See §§ 154.070 through 154.081 for off-street parking and loading requirements.

(F) *Signs.* See § 154.098 for size and type of permitted signs as they apply to office districts.

(G) *Groundwater protection standards.* Within this Wellhead Operation District, the following standards shall apply:

(1) Use and/or storage of regulated substances in conjunction with public water supply and treatment activities shall not be restricted by this section.

(2) Use of regulated substances in conjunction with public parks, playgrounds and community centers shall be in accordance with the city's management plan for maintenance of sensitive areas now or subsequently adopted by the city.

(3) Use of regulated substances in conjunction with special uses in this district shall be limited to:

(a) The aggregate of regulated substances in use may not exceed 20 gallons or 160 pounds at any time.

(b) The total use of regulated substances may not exceed 50 gallons or 400 pounds in any 12 month period.

(c) A limited exclusion from the provisions of this division is authorized for non-routine maintenance or repair of property or equipment. The use of regulated substances under this exclusion shall be limited to:

1. The aggregate of regulated substances in use may not exceed 50 gallons or 400 pounds at any time.

2. The total use of regulated substances may not exceed 100 gallons or 800 pounds in any 12 month period.

(d) A limited exclusion from the provisions of this division is authorized for the application of agricultural chemicals to cropland where such chemicals are

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brought in from other locations. This exclusion is subject to the condition that such substances are applied to cropland under best management practices as indicated by soil tests, agricultural experts, or label directions approved by the United States Environmental Protection Agency (U.S.E.P.A.) or the Ohio Department of Agriculture. This exclusion does not apply to the inventory reporting requirements of § 154.063(I)(8)(a)d. and the spill reporting requirements of § 154.063(I)(8)(b).

(4) Underground storage of fuel and lubricants for vehicle operations in conjunction with permitted and special uses in this district shall be in tanks placed above the floor surface of a below grade vault. Said vault shall allow access for physical inspection of the tank for leakage and the interior of the vault shall be continuously monitored and alarmed to provide for automatic and immediate detection of any release from the tank.

(5) Notwithstanding other provisions of this section, nonconforming uses in this district utilizing underground storage tanks for fuel and lubricants for vehicle operations at the effective date of this section shall be permitted to replace existing tanks with those constructed to meet the specifications of subdivision (4) of this division and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than fuel and lubricants for vehicle operations is not permitted.

(6) Except as otherwise permitted by this section, storage of regulated substances other than fuel and lubricants for vehicle operations in conjunction with permitted and special uses in this district is prohibited.

(7) As part of the findings required under §§ 154.205 through 154.215 prior to issuance of a zoning permit or a certificate of occupancy, the Zoning Enforcement Officer shall utilize the hazard potential rating system (identified in § 154.063(H)) to assist in the determination of intensity of use within this district. No substitutions of a non-conforming use shall be permitted which result in an increase of the hazard potential rating on a parcel within this district.

(8) All uses within this district shall be connected to the public wastewater disposal system within a 3 year period from the effective date of this chapter or have a wastewater disposal system approved by the Miami County Health District.

(H) *Enforcement provisions.* Section 154.063(I) is incorporated herein by reference as to land in the Wellhead Operation District not owned or otherwise controlled by the city. For this purpose, references in § 154.063(I) to the Well Field Protection Overlay District shall be deemed to mean the Wellhead Operation District.

(1974 Code, § 154.062) (Ord. 30-94, passed 9-19-1994)

## TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / DISTRICT

**REQUIREMENTS / § 154.063 WP WELL FIELD PROTECTION OVERLAY DISTRICT.**

**§ 154.063 WP WELL FIELD PROTECTION OVERLAY DISTRICT.**

(A) *Purpose.* It is the purpose of the Well Field Protection Overlay District (sometimes referred to as the WP District or Overlay District or Protection Overlay District) to safeguard the public health, safety and welfare of the customers of protected public water supplies and to protect the community's potable water supply against contamination by regulating land use and the storage, handling, use and/or production of regulated substances as defined in § 154.004. The land within the overlay district is that land in the city that lies within a 1 year travel time contour adjacent to existing and proposed public wells of a protected public water supply and to any Wellhead Operation District.

(B) *Applicability of Well Field Protection Overlay District to underlying zoning districts.* The provisions of this section shall be applicable to all lands shown as being located within the boundaries of the Well Field Protection Overlay District on the zoning map and shall be supplemental to the regulations of the underlying zoning district. Where the requirements of this section are in conflict with the regulations of the underlying district, the more restrictive regulations shall apply.

(C) *Determination of applicability.* It shall be the responsibility of any person owning real property and/or owning or operating a business within the city to make a determination of the applicability of this section as it pertains to that property and/or business, and failure to do so shall not excuse any violations of this section.

(D) *Uses.*

(1) *Permitted uses.* The permitted principal and accessory uses within the Well Field Protection Overlay District shall be limited to those of the underlying zoning district, except as those uses may be restricted by this section.

(2) *Special uses.*

(a) Special uses within the Well Field Protection Overlay District shall be those of the underlying zoning district, except as those uses may be restricted by this section.

(b) When listed as a permitted or conditional use within the underlying zoning district, the excavation, extraction, mining, or processing of sand, gravel, and limestone from the earth for resale shall remain as conditional uses in the WP Well Field Protection Overlay District subject to § 154.122 and Planning Board approval of an excavation and facilities plan that includes, but is not limited to:

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1. An existing site plan with topographic detail at 2 foot contour intervals, all planimetric information, depth to groundwater, and flood plain characteristics where applicable.
2. The proposed extent and depth of excavations.
3. Slope angle of excavation walls (any final slopes shall be at the angle of repose for the remaining material).
4. Use and disposition of the spoil and/or overburden materials from the excavations, including a landscaping and vegetation plan to stabilize any disturbed material.
5. Surface drainage plan:
  - a. Drainage into on-site excavations from proximate off-site transportation facilities such as roadways and roadbeds and off-site watercourses is prohibited unless the applicant provides a plan which otherwise protects the excavations from off-site waterborne regulated substances.
  - b. The final on-site grading shall minimize all surface drainage into the excavations.
6. A post-excavation and operation land use plan.
7. A security plan (unauthorized access shall be strictly prohibited as long as any excavations remain on site).

(E) *Site development regulations.* Site development regulations incident to a permitted use shall be those of the underlying zoning district.

(F) *Prohibited uses.* Sanitary landfills, dry wells, landfills comprised of demolition debris or other non-approved matter, and junk yards are prohibited in the Well Field Protection Overlay District.

(G) *Groundwater protection standards.* Within this Well Field Protection Overlay District, the following standards shall apply:

- (1) Use, storage, handling and/or production of regulated substances in conjunction with permitted and special uses in this overlay district shall be limited to:
  - (a) Aggregate of regulated substances: The aggregate of regulated substances in use, storage, handling and/or production may not exceed 20 gallons or 160 pounds at any time.
  - (b) Total use of regulated substances: The total use, storage, handling



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and/or production of regulated substances may not exceed 50 gallons or 400 pounds in any 12 month period.

(2) A limited exclusion from the provisions of subdivision (1) above is authorized for non-routine maintenance or repair of property or equipment. The use, storage, handling and/or production of regulated substances under this exclusion shall be limited to:

(a) The aggregate of regulated substances in use, storage, handling, and/or production may not exceed 50 gallons or 400 pounds at any time.

(b) The total used storage, handling and/or production of regulated substances may not exceed 100 gallons or 800 pounds in any 12 month period.

(c) The application of U.S.E.P.A. approved agricultural chemicals by licensed personnel using U.S.E.P.A. best recommended practices. Below ground applications in excess of 100 gallons or 800 pounds in any 12 month period shall require 72 hour prior notice to the Zoning Enforcement Officer.

(3) A limited exclusion from the provisions of subdivision (1) above is authorized for each medical and research laboratory use. This exclusion is subject to the conditions that regulated substances shall be stored, handled or used in containers not to exceed 5 gallons or 40 pounds of each substance; and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.

(4) A limited exclusion from the provisions of subdivision (1) above is authorized for regulated substances which are cleaning agents. This exclusion is subject to the conditions that such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public; and the aggregate inventory of such cleaning agents shall not exceed 100 gallons or 800 pounds at any time. In no case shall regulated substances claimed under this exclusion include hydrocarbon or halogenated hydrocarbon solvents.

(5) A limited exclusion from the provisions of subdivision (1) above is authorized for on-site storage of a maximum one-year supply of agricultural chemicals to be used for routine on-site agricultural operations. This exclusion is subject to the condition that such substances are stored in standard approved packaging and such chemicals are applied to cropland under best management practices as indicated by soil tests, agricultural experts, or label directions approved by the United States Environmental Protection Agency (U.S.E.P.A.) or the Ohio Department of Agriculture. This limited exclusion also applies to the application of agricultural chemicals to cropland where such chemicals are brought in from other locations. This provision does not exempt such agricultural chemicals either stored on-site or brought in from other locations from the inventory, spill reporting and underground storage tank protection requirements of this overlay district.

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NOTE: THIS REGULATION DOES NOT RESTRICT THE USE OF AGRICULTURAL CHEMICALS APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES AND/OR LABEL DIRECTIONS.

(6) Unless regulated by the Ohio Fire Marshal, Bureau of Underground Storage Tank Regulation (BUSTR), and with the exception of residential use of heating fuels in tanks having a capacity of 500 gallons or less, the underground storage of fuel and lubricants for vehicle operations and of fuel for building and/or process heating in conjunction with valid uses in this district shall be in tanks secondarily contained (as defined by the Ohio State Fire Marshal, Bureau of Underground Storage Tank Regulation) and monitored. Such installations shall be subject to approval by the Zoning Enforcement Officer.

(7) Notwithstanding other provisions of this section, non-conforming uses in this district utilizing underground tanks to store fuel and lubricants for vehicle operations and fuel for building and/or process heating at the effective date of this section shall be permitted to replace existing tanks with those constructed to meet the specifications of subdivision (6) above and not exceeding the capacity of existing tanks. Replacement of underground tanks for regulated substances other than the above noted fuels and lubricants is not permitted.

(8) As part of the findings required under §§ 154.205 through 154.215 prior to issuance of a zoning certificate or certificate of occupancy, the Zoning Enforcement Officer shall utilize the hazard potential rating system in division (H) of this section to assist in the determination of intensity of use within this district. No substitutions of a non-conforming use shall be permitted which result in an increase of the hazard potential rating on a parcel within this district. If the quantities of regulated substances initially exceed the de minimis quantities above, they shall be considered legally nonconforming. Such legally nonconforming quantities cannot be increased to any degree or extent, however.

(H) *Hazard potential rating system.*

(1) In order to assess the risk for potential groundwater contamination, a hazard rating has been developed for various activities categorized by their Standard Industrial Classification (SIC) code. This rating is based on the kind of materials commonly associated with each use, looking only at the most critical hydrologic factors.

(2) Table 1 in Appendix D following this chapter lists the site hazard potential by land use activity (source) on a scale of 1 to nine, with 1 being a low hazard and 9 a very high hazard. This rating is based on the intrinsic hazards posed by different land uses and is related to the materials commonly used or stored on the site or the types and amounts of wastes commonly discharged. This table refers to many land uses not permitted (and not existing as nonconforming uses) in the underlying zoning district of any land included in this overlay district, but that fact shall not be deemed to constitute an express or implied legislative statement

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that such uses are permitted by this section.

(3) Table 2 in Appendix D following this chapter lists the hazard potential determined on the basis of materials known to be used, stored, or disposed of at a specific site.

(4) If the 2 tables referenced above indicate different site hazard potential ratings for the SIC- coded land use activity and the materials found on- site, the higher of the 2 scores is the rating for the site.

(I) *Enforcement provisions.*

(1) *Scope.* Nothing contained in this section shall be construed so as to interfere with any existing or future lawful requirements that may be, or heretofore were, imposed by any other public body authorized to enact sanitary, health or water pollution abatement restrictions so long as such requirements are consistent with, or more stringent than, the stated purpose of this section.

(2) *Administration.* Except as otherwise provided herein, the Zoning Enforcement Officer for the City, hereinafter referred to as the Administrative Officer, shall administer, implement, and enforce the provisions of this section.

(3) *Notice of violation.*

(a) Any person found in violation of any provisions of this section or any order, requirement, rule or regulation issued under the authority of this section will be served with a written notice stating the nature of the violation and providing reasonable time for compliance; but such written notice of violation may be dispensed with under the conditions described in subdivision (8)(b) of this division. Further, that if the Administrative Officer has previously promulgated a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Administrative Officer may dispense with establishing another time period for compliance.

(b) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the county tax record.

(4) *Inspections.* Subject to applicable provisions of law, the Administrative Officer or authorized designee bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling, and records examination pertaining to the requirements of this section. Upon request of the entity which is the subject of the inspection, and if permitted by the state public records law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the

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entry of the Administrative Officer, the Administrative Officer may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property; but no consent is necessary for entry into areas then open to the public or to customers.

(5) *Severability.* A finding by any court or other jurisdiction that any part or provision of this section is invalid shall not affect the validity of any other part or provision of this section which can be given effect without the invalid parts or provisions.

(6) *Handling of regulated substances.*

(a) No person shall place, deposit, or permit to be deposited, store, process, use, produce, dispose of, transport, or discharge, hereinafter referred to as "handle," any regulated substance on public or private property within the WP Well Field

Protection Overlay District except as provided by law, statute, ordinance, rule or regulation.

(b) Any violation of this section is hereby determined to be a nuisance and must be abated.

(7) *Underground storage tanks declared to constitute dangerous nuisances.*

(a) With the exception of the underground storage of fuel and lubricants for vehicular operations and of fuel for building heating and/or process heating in conjunction with permitted and special uses in this district, any storage of regulated substances in underground storage tanks within the Well Field Protection Overlay District shall be deemed to constitute a dangerous nuisance. Every such nuisance must and shall be abated no later than 5 years from the effective date of this section.

(b) With the exception of residential use of home heating fuel in tanks having a capacity of 500 gallons or less, any underground storage tank systems for vehicle fuel and lubricants and for fuel for building and/or process heating within the Well Field Protection Overlay District not removed within 5 years from the effective date of this section must be secondarily contained and monitored in accordance with plans submitted to and approved by the Administrative Officer and the city Fire Department.

(8) *Reporting requirements.*

(a) *Regulated substance activity inventory.*

1. *Applicability.*

a. Except as provided in subdivision 2. of this division, any owner or occupant of any land in this overlay district at the effective date of this section, shall file a regulated substance activity inventory report with the Administrative Officer. Said report shall be filed within 180 days of the effective date of this section, and follow up

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reports shall be so filed at 24 month intervals thereafter.

b. Except as provided in subdivision 2. of this division, any new owner or occupant of any land in the this overlay district shall file a regulated substance activity inventory report prior to receipt of a zoning certificate or a certificate of occupancy and at 24 month intervals following the date of occupancy. For purposes of this paragraph, "new" shall be defined as subsequent to the effective date of this section.

c. Where a person owns, operates or occupies more than 1 location, regulated substance activity inventory reports shall be made for each location.

d. Agricultural uses shall file a regulated substance activity inventory report within 180 days of the effective date of this section and at 12 months intervals thereafter. Regulated substance activity inventory reports for agricultural uses shall include total annual on-site application of regulated substances for the reporting property.

2. *Exclusions from activity inventory reporting.*

a. Any exclusion set forth in this subsection shall apply if it does not substantially increase any risk or hazard to the public health or water supply, wells or well fields; but further that any spill, leak, discharge or mishandling shall be subject to the provisions of the subsequent subdivision (b) of this division. Any exclusions granted herein shall not remove or limit the liability and responsibility of any person or activity involved, except as to inventory reporting.

b. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for incidental uses of regulated substances provided the uses are limited as follows:

(i) The aggregate of regulated substances in use may not exceed 20 gallons or 160 pounds at any time.

(ii) The total use of regulated substances may not exceed 50 gallons or 400 pounds in any 12 month period.

c. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for non-routine maintenance or repair of property or equipment in this overlay district provided the uses are limited as follows:

(i) The aggregate of regulated substances in use may not exceed 50 gallons or 400 pounds at any time.

(ii) The total use of regulated substances may not exceed 100 gallons or 800 pounds in any 12 month period.

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d. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for regulated substances which are cleaning agents. This exclusion is subject to the conditions that such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed 100 gallons or 800 pounds at any time. In no case shall regulated substances claimed under the exclusion include hydrocarbon or halogenated hydrocarbon solvents.

e. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for medical and research laboratory uses in this overlay district. This exclusion is subject to the conditions that regulated substances shall be stored, handled or used in containers not to exceed 5 gallons or 40 pounds of each substance, and the aggregate inventory of regulated substances shall not exceed 250 gallons or 2,000 pounds.

f. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for the transportation of regulated substances through this overlay district. This exclusion is subject to the conditions that the transportation vehicle is in compliance with applicable local, state, and federal laws and regulations; the regulated substance is fueling the transportation vehicle; and the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed 72 hours.

g. A limited exclusion from regulated substance activity inventory reporting is hereby authorized for owners and occupants of single or 2 family residences. This exclusion is subject to the conditions that the storage and use of regulated substances are related to the maintenance of the residence or vehicles under control of the occupant, and waste regulated substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly-owned wastewater treatment works.

### (b) *Spills, leaks or discharges.*

1. Any person with direct knowledge of a spill, leak or discharge of a regulated substance within this overlay district shall, if such spill, leak or discharge escapes containment or contacts a pervious ground surface and is not immediately and completely remediated, give notice to the Administrative Officer of the City or the operator on duty at the affected or potentially affected water treatment facility or the Fire Department by telephone within 30 minutes. The notification shall include at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate other local, state, and federal reporting obligations as required by law.

2. The application of agricultural chemicals, fertilizers, mineral acids, organic sulphur compounds, etc. used in routine agricultural operations, including

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plant nutrients and crop protection materials, applied under best management practices as indicated by soil tests, agricultural experts, or label directions approved by the United States EPA or the Ohio Department of Agriculture, shall not be considered a spill, leak, or discharge subject to the reporting provisions of this paragraph.

3. Any entity or person who spills, leaks or discharges said substance(s) shall be liable for any reasonable expense, loss or damages incurred by the City in response to such an incident, in addition to the amount of any fines imposed on account thereof under state and federal law; said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such spills, leaks or discharges as soon as practicable following the incident, but no later than 180 days after the incident.

(c) *Falsifying information.* No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this section.

### (9) *Public water supply protection authorities.*

(a) *Application.* If any activity or use of regulated substance is deemed by the Administrative Officer to pose a real and present danger of contaminating surface and/or groundwater which would normally enter the public water supply, the Administrative Officer, in accordance with R.C. § 713.13, is authorized to:

1. Cause cessation of said activity or use of the regulated substance;
2. Require the provision of administrative controls and/or facilities sufficient to mitigate said danger; and/or
3. Cause the provision of pollution control and/or abatement activities.

(b) *Considerations.* When considering the exercise of any of the above authorities or actions, the Administrative Officer shall consult with the appropriate administrative official of any potentially affected protected public water supply. Such consultation shall determine what measures need to be taken to ensure the public water supply is reasonably and adequately protected from contamination for the present and the future. The Administrative Officer may take into consideration any evidence represented by the entity regarding cost effectiveness and the economic effectiveness and the economic impact imposed by the requirements or actions.

(c) *Exemption of certain regulated substances.* The Administrative

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Officer is authorized to exclude certain regulated substances, that pose no threat to ground water, from the provisions of these regulations. Prior to authorizing the exemption of any regulated substance, the Administrative Officer shall have such request for exemption reviewed by the Environmental Advisory Board. The recommendation of the Environmental Advisory Board shall be binding on the Administrative Officer.

(d) *Technical consultants.* Upon application for a zoning permit and/or certificate of occupancy for a use within this overlay district, the Administrative Officer may employ such technical expertise as needed to ensure compliance with the provisions of these regulations. All costs incurred in the compliance review process shall be passed through to the applicant and shall be in addition to those fees normally charged by the city to review an application for a zoning permit and/or certificate of occupancy.

### (10) *Well Field Protection Appeals Board.*

(a) *Appeals.* Any person may appeal an action of the Administrative Officer made pursuant to this section by filing a notice of appeal within 10 days of said action and a statement of appeal within 30 days of the date that the order being appealed was issued. A notice of appeal shall include at a minimum, name, address, telephone number, date, and a statement of intent to appeal. A statement of appeal shall include all information contained in the notice of appeal, a description of the nature of the appeal, and any pertinent documentation.

(b) *Appeals Board.* The Board of Zoning Appeals shall act as and constitute a Well Field Protection Appeals Board and shall hear appeals under this section. Said Board shall have the authority to take appeals, issue subpoenas for witnesses and to deny, uphold, or otherwise modify or waive, the Administrative Officer's actions on a case-by-case basis.

(c) *Findings of the Board.* The appellant shall have the burden of proof. No modification or waiver of the requirements of this section shall be authorized by the Board unless it finds by clear and convincing evidence that all of the following facts and conditions exist.

1. *Exceptional burden:* That there are exceptional circumstances regarding the property or its lawful and valid uses which make enforcement of this section an unreasonable burden on the continuation of such uses.

2. *Lack of increased hazard:* That the waiver or modification will not significantly increase the threat of contamination of the community's potable water supply.

(11) *Penalties for violations.* A first violation of the provisions of this section beyond the time limit for compliance set forth by the Administrative Officer, notice of violation, or the compliance schedule established by the Administrative Officer, shall constitute a minor misdemeanor punishable as provided in § 154.999. A second violation by the same defendant,



whether of the same or another provision of this section, shall constitute a fourth degree misdemeanor. A third and each subsequent such violation by the same defendant shall constitute a second degree misdemeanor.

(1974 Code, § 154.063) (Ord. 30-94, passed 9-19-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET  
PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION  
STANDARDS**

***OFF-STREET PARKING AND LOADING,  
ACCESS CONTROL AND  
TRANSPORTATION STANDARDS***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET  
PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION  
STANDARDS / § 154.070 PURPOSE.**

**§ 154.070 PURPOSE.**

The standards and requirements of this subchapter are intended to minimize the traffic impacts of development and to assure that all developments adequately and safely provide for the storage and movement of vehicles in a manner consistent with good site design and engineering practices. Included in this subchapter are standards regulating off-street parking and loading, access control to and from public streets, and the assessment of the overall traffic impact of a development.

(1974 Code, § 154.070) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET  
PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION  
STANDARDS / § 154.071 SCOPE OF REGULATIONS.**

**§ 154.071 SCOPE OF REGULATIONS.**

- (A) For all buildings and structures erected and all uses of land established after the

effective date of this chapter, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of this chapter and provided that construction is begun within 6 months of such effective date and diligently pursued to completion, parking and loading facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this chapter.

(B) When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity, or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use and for at least 50% of any existing deficiency in parking or loading facilities.

(C) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date of this chapter, additional parking or loading facilities, are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use, if the latter were subject to the parking and loading provisions of this chapter.

(D) Off-street parking and loading facilities in existence on the effective date of this chapter and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirements for a similar new building or use under the provisions of this chapter.

(E) Any area once designated as required off- street parking or loading shall never be changed to any other use unless and until equal facilities are provided elsewhere.

(1974 Code, § 154.071) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.072 GENERAL REQUIREMENTS.**

**§ 154.072 GENERAL REQUIREMENTS.**

(A) *One and two-family dwellings.* The off- street parking facilities required for 1 and 2-family dwellings should be located on the same lot or plot of ground as the building they are intended to serve, but shall not be considered a parking lot under the provisions of this subchapter.

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(B) *Multiple-family*. The off-street parking facilities for multi-family dwellings shall consist of a parking lot as defined elsewhere in this subchapter. In no event shall any uncovered parking space in a multi-family district be located nearer than 10 feet to any main building.

(C) *Mobile homes parks*. The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site.

(D) *Other land uses*. The off-street parking required may be located on each site or in parking lots conveniently located and readily accessible to each site. Such off-lot spaces shall be located only in districts in which similar off-street parking is permitted.

(1974 Code, § 154.072) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.073 CONTROL.**

**§ 154.073 CONTROL.**

In cases where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such possession may be either by deed or long-term lease, the term of said lease, to be determined by the Building Inspector; and such deed or lease shall be filed with the City Clerk. The deed or lease shall require such owner or his or her heirs and assigns to maintain the required number of parking facilities for the duration of the use served or of the deed or lease, whichever shall terminate sooner. No person shall park a vehicle in a front yard except upon a hard surface area which has been designated and approved by the city as a parking strip or driveway in either residentially or commercially zoned areas.

(1974 Code, § 154.073) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.074 UTILIZATION.**

**§ 154.074 UTILIZATION.**

(A) Off-street parking as required in § 154.072 shall be used solely for the parking of

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motor vehicles in operating condition of patrons, occupants or employees of such uses.

(B) No motor vehicle repair work or service of any kind, except emergency repairs, shall be permitted in or in association with any off-street parking area, except that off-street parking areas for residential uses may be used for occasional auto washing or minor repairs of vehicles owned by the occupant(s).

(C) No motor vehicle, including trucks, truck beds and semi-tractor-trailers, shall be stored or parked in any off-street parking area for the purpose of warehousing or distributing goods, except for temporary sales pursuant to the regulations in § 154.079. All such vehicles shall otherwise be parked in designated off-street loading areas as regulated under § 154.073.

(D) No off-street parking areas shall be used for the parking of a business or service vehicle or truck larger than a normal passenger vehicle which can fit within a space of the size specified in this section. All such vehicles shall be parked either in an enclosed building, in a designated off-street loading areas as regulated in § 154.079, or in an area specifically designated only for the parking of business vehicles. Such area designated for the parking of business vehicles shall not be located in any front yard or street side yard, and shall be located at least 25 feet from any right-of-way line.

(E) Any van, pick-up truck or other similar business vehicle which is the size of a normal passenger vehicle, is commercially licensed and carries commercial advertising shall be stored or parked at least 25 feet from any street right-of-way line.

(F) Motor vehicles with signs painted on or attached to them shall not be used as signs, nor shall they be parked in such a manner so as to violate or circumvent the provisions of §§ 154.090 through 154.106.

(G) Off-street parking areas shall not be used for the display of vehicles for sale unless such display is in conjunction with the operation of an automobile sales facility.

(H) The off-street parking of any recreational vehicle, boat and/or boat trailer, dual purpose truck- camper, pick-up camper or coach (designed to be mounted on automotive vehicles), motorized dwelling, tent trailer, travel trailer, utility trailer, bus, semi- tractor trailer or commercial vehicle designed or used for carrying merchandise or freight shall be permitted in a residential district only under the following conditions:

(1) One camping or recreational vehicle may be parked in a residential district on a front driveway that is permanently hard-surfaced for a period of time not to exceed 48 consecutive hours within any 7-day period.

(2) One commercial vehicle having empty weight of less than 10,000 pounds and not more than 7 feet in height may be parked on any lot in a residential district on a driveway

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that is permanently hard-surfaced.

(3) One vehicle less than 10,000 pounds weight and/or 10 feet or buses, boats and trailers less than the allowable length in accordance with the Ohio Revised Code may be parked or stored on any lot in a residential district. However, such parking or storing shall be prohibited in any front yard, or street side yard.

(4) All permitted camping and recreational vehicles and equipment and commercial vehicles shall be kept in good repair and carry a current year's license and/or registration. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

(5) Parked or stored camping and recreational vehicles and equipment or other similar habitable vehicles shall not be connected to electricity, water, gas or sanitary sewer facilities, with the exception that a temporary electric service may be connected for maintenance purposes only. No person shall permanently remove the wheels or similar transporting devices of any habitable vehicle parked in any residential district, nor shall such vehicle be otherwise fixed to the ground by any person in any manner that would prevent the ready removal of said habitable vehicle.

(6) No person shall conduct business within or from any vehicle on a property in a residential district except as permitted in § 154.060.

(7) The conditions set forth in subdivisions (1) through (3) above shall not apply under the following situations:

(a) Commercial vehicles making service calls, including vehicles being used for moving personal goods.

(b) Vehicles owned, rented or leased by a church, school or other institutional use, provided that such vehicle is parked or stored only on the property where such use is located and that the location and screening of such storage or parking area complies with the provisions of subdivision (3) above.

(8) Temporary habitation of recreation vehicles shall be allowed up to a maximum of 21 calendar days within a calendar year. The property owner shall register with the Police Division, prior to

the temporary habitation use, and inform the police of the dates of stay.

(I) *Size and design.* Off-street parking facilities shall meet the following standards:

(1) *Size of spaces.* The minimum size for an off-street parking space shall be 20 feet in length by 10 feet wide. However, compact car spaces, with minimum dimensions of 8

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feet by 16 feet, may be substituted for up to 15% of the required spaces, provided that such spaces are readily identified.

(2) *Width of parking area aisles and driveways.*

(a) Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

<i>Parking Angle</i>					
Aisle Width	0°	30°	45°	60°	90°
1-Way Traffic	13	11	13	18	24
2-Way Traffic	19	20	21	23	24

(b) Driveways shall be not less than 8 feet in width for 1-way traffic and 16 feet in width for 2-way traffic.

(3) *Design and construction standards.*

(a) Off-street parking may be open to the side, or enclosed in a building or structure, either above or below ground. Off-street parking areas shall meet acceptable engineering standards as set forth by the City Engineer for such things as driveway widths, island design, curbs, barriers, grades, stacking and waiting areas and drainage.

1. Each off-street parking space shall open directly onto an aisle or driveway of such width and design to provide safe and efficient means of vehicular access to the parking space, and which, except for single-family and 2-family residences (not fronting upon a major collector or arterial thoroughfare), does not require a vehicle to back into a public street.

2. Such aisle or driveway shall not be used for parking of other vehicles, except that the driveway of a single-family or two-family residence shall be counted as parking spaces for such dwelling unit, the number of spaces being dependent on a determination by the Zoning Administrator based on the size and accessibility of said driveway.

3. Each driveway shall comply with the standards for roadway access as specified in this section, and any new driveway opening onto a public street requires a driveway permit from the Building Regulations Department.

(b) Surfacing and curbing. Except for temporary parking permitted, or the expansion of existing parking area for single-family residential uses, all open off-street

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parking areas shall be graded and provided with a hard surface of bituminous or Portland cement concrete. Except for parking areas for single-family residential uses, all parking areas shall be bounded by curbs 6 inches in height. Such curbs may be made of concrete, stone, timber or similar material, but shall not be made of asphalt.

(c) Wheel stops. Wheel stops shall be installed at least 30 inches from an adjacent sidewalk, fence or wall. Such stops shall be either a concrete piece at least 36 inches long and permanently affixed to a foundation; a continuous concrete curb, or other appurtenance or design features that prohibit a vehicle from obstructing a sidewalk or making contact with a wall or fence.

(d) Drainage. All off-street parking areas shall meet the standards for stormwater run-off control as provided and administered by the City Engineer.

(e) Marking. Designated parking spaces shall be marked on the surface of the parking area with paint or permanent marking materials and maintained in clearly visible condition. Where approaches contact the public right-of-way, the paint lines dividing vehicle paths and other pavement markings shall be in accordance with the Ohio Uniform Traffic Control Manual.

### (J) *Landscaping requirements.*

(1) The following provisions are to be considered minimum landscaping requirements for the conditions defined herein. In cases in which respective zoning districts require greater yard setbacks, and/or landscaping, those requirements shall prevail.

(2) Wherever in any zoning district off- street facilities are provided for parking or any other vehicular uses as provided in § 154.071, such off- street facilities and land shall conform to the minimum landscaping requirements set forth in this section, except, that single and 2-family residential uses on individual platted lots and multi-level parking structures shall be exempt from such requirements. All landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops or other similar devices. Existing trees, as defined herein, may be used to meet the requirements of this section.

#### (a) *Plant material.*

##### 1. *Trees.*

a. All trees shall be species having on average mature spread or crown of greater than 15 feet in the Miami Valley area and having trunk(s) which can be maintained in a clean condition over 5 feet of clear wood. Trees having an average mature spread of crown less than 15 feet may be substituted by grouping the same so as to create the equivalent of a 15 foot crown spread.

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b. Tree species shall be a minimum of 6 feet overall height immediately after planting. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be planted closer than 6 feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior dimensions shall be 5 feet square and 5 feet deep, and for which the construction requirements shall be 4 inches thick concrete reinforced with #6 road mesh (6x6x6) or equivalent.

2. *Shrubs and hedges.* Shrubs shall be a minimum of 2 feet in height when measured immediately after planting. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen within a maximum of 1 year after time of planting.

### (b) *Development standards.*

1. Required landscaping adjacent to public right-of-way. On any parcel providing an off-street parking area or other vehicular use area in excess of 3,000 square feet or 10 spaces, where such area will not be entirely screened visually by an intervening building or structure from any abutting right-of-way, excluding alleys, there shall be provided landscaping between such area and such right-of-way as follows:

a. A strip of land at least 6 feet in depth located between the abutting right-of-way and the off-street parking area or other vehicular use area which is exposed to an abutting right-of-way shall be landscaped to include an average of 1 tree for each 50 linear feet or fraction thereof. Such trees shall be located between the abutting right-of-way and off-street parking area or other vehicular use area.

b. In addition, a hedge, wall or other opaque durable landscape barrier of at least 2 feet in height shall be placed along the entire length of such landscaped area. If such opaque durable barrier is of nonliving material, for each 10 feet thereof, an average of 1 shrub or vine shall be planted abutting such barrier but need not be spaced 10 feet apart. Such shrubs or vines shall be planted along the street side of such barrier unless they are of sufficient height at the time of planting to be readily visible over the top of such barrier. The remainder of the required landscaped areas shall be landscaped with grass, ground cover or other landscape treatment.

2. *Required landscaping adjacent to interior property lines.* On any parcel providing an off-street parking area or other vehicular use area, there shall be provided landscaping between such area and such property line as follows:

a. Where such area abuts property zoned or, in fact, used primarily for residential or institutional purposes that portion of such area not entirely screened visually by an intervening structure or existing conforming buffer from an abutting



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property, there shall be provided a landscaped buffer. Such landscape buffer shall be located between the common lot line and the off-street parking area or other vehicular use area exposed to the abutting property so that the purpose of screening the off-street parking area or other vehicular use area is accomplished. The vertical requirement for such landscape buffer area may be reduced to not less than 3 feet where the only vehicular use area to be screened is a driveway not exceeding 10 feet in width.

b. In addition, an average of 1 tree shall be provided for each 50 lineal feet of such interior property line or fractional part thereof. Such trees shall be located between the common lot line and the off-street parking area or other vehicular use area. Each such tree shall be planted in at least 25 square feet of planting area with a minimum dimension of at least 5 feet. Each such planting shall be landscaped with grass, ground cover or other landscape material excluding paving in addition to the required tree.

c. Where such area abuts a dedicated alley or property zoned and, in fact, used for office, commercial or industrial purposes and exceeds 3,000 square feet or 10 spaces, only the tree provision with its planting area as prescribed in this subsection shall be required.

### 3. *Required vehicular use area interior landscaping.*

a. Off-street parking areas in excess of 3,000 square feet or 10 spaces shall have at least 10 square feet of interior landscaping for each parking space excluding those spaces abutting a perimeter for which landscaping is required by other sections thereof.

b. Each separate landscaped area shall contain a minimum of 100 square feet and shall have a minimum dimension of at least 5 feet and shall include at least 1 tree, with the remaining area adequately landscaped with shrubs, ground cover, or other landscaping material. The total number of trees shall not be less than 1 for each 100 square feet or fraction thereof of required interior landscaping area. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving and at strategic points to guide traffic flow and direction.

c. The front of a vehicle may encroach upon any interior landscaped area when said area is at least 3 and 1 feet in depth per abutting parking space and protected by motor vehicle stops or curbing. Two feet of such landscaped area or walkway may be part of the required depth of each abutting parking space.

4. *Sight distance for landscaping adjacent to public rights-of-way and points of access.* When an accessway intersects a public right-of-way, all landscaping shall provide unobstructed cross-visibility at a level between 2 and one-half and 6 feet within the areas of property on both sides of an accessway formed by the intersection of each

side of the accessway and public right-of-way lines with 2 sides of each triangle being 10 feet in length from the point of intersection and the third side being a line connecting the ends of the 2 other sides; provided that trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into the cross visibility area shall be allowed, and further provided they are located so as to not create a traffic hazard. Landscaping, except required grass or ground cover, shall not be located closer than 3 feet from the edge of any accessway pavement. When the subject property abuts the intersection of 2 or more public rights-of- way, the provisions of this section shall apply.

(c) *Applicability.* The provisions of this section shall apply to all new off-street parking or other vehicular use area. At such time as existing off- street parking or other vehicular use areas are enlarged or expanded, such provisions shall apply to the previous existing areas as well as the new areas. Any appeal from an administrative determination relating to these regulations shall be to the Board of Zoning Appeals. Prior to issuing occupancy permits for new construction, implementation and completion of landscaping requirements in off-street vehicular facilities shall be required. Where a conflict exists between the strict application of this section and the requirements for number of off-street parking spaces or requirements for off-street loading facilities as found in the schedule of off-street parking and loading requirements, the requirements of this section shall supersede the schedule.

(d) *Time of completion.* All tree plantings and planting screens required by this chapter shall be installed prior to occupancy or commence of use. Where compliance with the preceding sentence is not possible because of the season of the year, the Zoning Administrator shall grant an appropriate delay, but shall issue no permanent zoning compliance certificate or certificate of occupancy until completion of all required plantings. Any zoning compliance permit or certificate of occupancy may be revoked, after 30 days written notice to the person assessed for taxes on the affected lot and to the occupant, whenever planting screens or required 3 plantings are not maintained as required in this chapter.

(1974 Code, § 154.074) (Ord. 26-93, passed 8-16-1993; Am. Ord. 13-01, passed 9-4-2001)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.075 MIXED OR JOINT USE OF PARKING SPACES.**

**§ 154.075 MIXED OR JOINT USE OF PARKING SPACES.**

(A) The total requirement for off-street parking facilities for mixed occupancies or for parking areas shared by 2 or more buildings shall be the sum of the requirements for the various uses computed separately.

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(B) The Planning Board may authorize a reduction in the total number of required parking spaces for 2 or more nonresidential uses jointly providing off-street parking when their respective hours of operation do not normally overlap. Examples of these types of uses are restaurants, theaters, churches, school auditoriums and banks, financial institutions, business and professional offices, retail and personal service establishments. Reduction of joint use parking shall be subject to the following conditions:

(1) No more than 50% of the parking spaces required for a building or use may be supplied by parking facilities required for any other building use.

(2) The applicant shall submit sufficient data to indicate that there is not substantial conflict in the principal operating hours of the uses proposing to make use of the joint parking facilities.

(3) The property owners involved in the joint use of off-street parking facilities shall submit a legal agreement approved by the city's legal council guaranteeing that the parking spaces shall be maintained so long as the use requiring parking is in existence or unless the required parking is provided elsewhere in accordance with the provision of this subchapter. Such instrument shall be recorded by the property owner in the office of the Miami County Recorder and a copy filed with the Zoning Administrator.

(1974 Code, § 154.075) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.076 PARKING FOR HANDICAPPED PERSONS.**

**§ 154.076 PARKING FOR HANDICAPPED PERSONS.**

(A) Parking spaces specifically designed, located, and reserved for vehicles used by the handicapped shall be provided in each parking facility of 25 or more spaces according to the following table:

<i>Total Spaces Required</i>	<i>Minimum Number of Handicapped Spaces Required</i>
1 - 24	0
25 - 50	1

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50 - 99	2
100 - 199	3
200 - 299	4
300 or greater	5

(B) Each parking space for the handicapped shall consist of a rectangular area not less than 12 feet wide by 20 feet long, with a vertical clearance of 7.5 feet, shall be located in an area not exceeding a 2% slope, and shall be located near or convenient to a level or ramped entrance, not exceeding a 5% slope, to the facility served by the parking space. Parking spaces for the handicapped shall be signed and restricted for use by the handicapped only.

(1974 Code, § 154.076) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.077 COMPUTATION.**

**§ 154.077 COMPUTATION.**

(A) *Number of spaces.* When determination of the number of off-street parking spaces required by this section results in a fractional space, the fraction of  $\frac{1}{2}$  or less may be disregarded and a fraction in excess of  $\frac{1}{2}$  shall be counted as 1 parking space.

(B) *Units of measurement.* For the purpose of determining off-street parking requirements, the following units of measurement shall apply:

(1) *Floor area.* Floor area for nonresidential purposes shall be the sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls.

(2) *Hospital beds.* In hospitals, bassinets shall not be counted as beds.

(3) *Place of public assembly.*

(a) *Benches.* In stadiums, sports areas, churches and other places of assembly in which those in attendance occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as 1 seat.

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(b) *Fixed seats and assembly areas.* In cases where a place of assembly has both fixed seats and open assembly area, requirements shall be computed separately for each type and added together.

(4) *Employees on the largest work shift.* Employees on the largest work shift means the maximum number of employees which could be employed at a facility, regardless of the time period during which this occurs and regardless of whether any such person is a full-time employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

(5) *Capacity.* Capacity means the maximum number of persons which may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

(1974 Code, § 154.077) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.078 NUMBER OF PARKING SPACES REQUIRED.**

**§ 154.078 NUMBER OF PARKING SPACES REQUIRED.**

(A) *Residential uses.*

(1) Single-family or 2-family residential detached and semi-detached, 2 off-street parking spaces per dwelling unit (a garage may not be counted for 1 of these spaces), 2-family, single-family attached and multi-family: 2 spaces per dwelling unit. For a space to be counted it must have unobstructed access to the street.

(2) Apartments: 2 spaces per dwelling unit. For a space to be counted it must have unobstructed access to the street.

(B) *Special residential uses.*

(1) Dormitories, convents and monasteries: 1 space per 6 residents plus 1 space per employee.

(2) Corporate guest houses: 1 space per 2 bedrooms, plus 1 space per employee.

(3) Residential social service facilities: 1 space per 4 residents plus 1 space per employee.

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(4) Retirement villages and senior citizen housing: 3/4 space per dwelling unit, plus 1 space per employee.

(C) *Institutional and recreational uses.*

(1) Cemeteries: 1 space per employee, plus one space per four seats in any chapel.

(2) Community centers, libraries, museums, art galleries, botanical gardens and other establishments of historical, education and cultural interest: one space per 250 square feet of gross floor area, plus 1 space per employee on the largest work shift.

(3) Day care centers and nursery schools: 1 space per employee, plus 1 space per 5 children at capacity, plus a drop-off area consistent with the provisions of § 154.122.

(4) Elementary and junior high schools: 1 space per employee, plus 1 space per classroom.

(5) High schools: 1 space per employee, plus 1 space per 4 students at capacity.

(6) Hospitals and medical centers: 1 space for every 2 beds, plus 1 space for every staff and employee on the largest work shift.

(7) Junior colleges, colleges and universities: 1 space for each student classroom seat, plus 1 space per employee.

(8) Places of worship: 1 space per 3 seats at maximum capacity.

(9) Public offices and buildings: 1 space for every 250 square feet of gross floor area.

(10) Nursing and personal care facilities, including nursing homes, extended care facilities, rest homes and convalescent homes: 1 space per 6 beds, plus 1 space for each staff and employee on the largest work shift.

(11) Recreation uses, indoor and outdoor: all such uses shall provide the total number of spaces required for the specific combination of recreation facilities provided, based on the following:

(a) Auditoriums, areas, stadiums, gymnasiums, and playing fields with stands: 1 space for every 4 seats at capacity.

(b) Golf courses: 10 spaces per hole, plus 50% of the spaces otherwise required for any accessory uses (that is, bars, restaurants, pro shops).

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(c) Parks, playgrounds, nature areas and other open space: 1 space for every 5 users at maximum capacity, except that the Planning Board may waive the parking requirements for neighborhood parks under 5 acres in size.

(d) Recreation centers: 1 space for every 250 square feet of floor area, except those designed for use exclusively by senior citizens or youth under age 16, in which case there shall be 1 space for every 750 square feet.

(e) Skating rinks: 1 space per 300 square feet of gross floor area.

(f) Swimming pools: 1 space for every 75 square feet of water surface area.

(g) Tennis, racquetball and handball courts: indoor, 4 spaces for each playing court; outdoor tennis courts, 2 spaces for each court.

(h) In addition to the above requirements, all recreational uses shall provide 1 space for every 2 employees on the largest work shift.

(D) *Business and professional offices.*

(1) Business and professional offices and associations: 1 space per 150 square feet of gross floor area, but not less than 2 spaces per office.

(2) Medical offices and clinics: 3 spaces per treatment or examination room or chair, plus 1 space per staff and employee, but not less than 5 spaces per practitioner.

(E) *Retail, commercial and service uses.*

(1) Animal hospitals and veterinary clinics: 3 spaces for each treatment area, plus 1 space for each staff and employee, except that pet stores shall provide parking pursuant to subdivision (9) below.

(2) Commercial schools and studios: 1 space for every 3 students at capacity and 1 space for each employee.

(3) Financial establishments, banks and savings and loan associations: 1 space per 200 square feet of gross floor area, plus spaces as specified in § 154.122 for drive through facilities, if pertinent.

(4) Funeral homes and mortuaries: 1 space for every 50 square feet of public floor area, plus 1 space for each employee, plus 1 space for each business vehicle.

(5) General merchandise stores and supermarkets: 1 space for each 150 square feet of gross floor area used for sales and display and 1 space for every 250 square feet of

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storage, warehouse and office area.

(6) Home furnishings, home improvements and equipment stores: 1 space for each 400 square feet of indoor and outdoor sales and display area and 1 space for each 800 square feet of office, storage and warehouse area.

(7) Nurseries and garden supply stores: 1 space for each employee on the largest shift, 1 space for each 200 square feet of gross floor area of inside sales or display and 1 space for each 1,000 square feet of exterior sales and display area.

(8) Restaurant, standard: 1 space per 100 square feet of gross floor area, plus 1 space per employee on the largest work shift.

(9) Specialty retail commercial, specialty food stores, personal services and commercial centers: 1 space for every 200 square feet of gross floor area less than 2,000 and 1 space for every 250 square feet of gross floor area greater than 2,000 square feet, except that commercial entertainment uses in commercial centers shall provide additional parking as required in the following pertinent provisions, and no use shall have less than 5 spaces.

(10) Business and cleaning services: 1 space for every 300 square feet of sales and office area, plus 1 space for every employee on the largest work shift, plus 1 space for every company or service vehicle regularly stored on the premises.

(11) Automobile accessories sale and installation: 2 spaces for every service bay, plus 1 space for each employee, plus 1 space for every 400 square feet of sales area.

(12) Automobile service stations and auto repair, painting and body shops: 2 spaces for each service bay, plus 1 space for each employee and service vehicle, with a minimum of 6 spaces.

(13) Automobile washing facilities:

(a) *Full service attended facilities.* 6 waiting spaces and 2 storage spaces for each car washing device or stall; or 10 off-street waiting spaces for an assembly line type washing establishment where vehicles await entrance to the washing process. One employee parking space for each employee on duty. Two parking spaces at the exit end of each washing bay for drying and hand finishing of vehicles.

(b) *Self-service facilities.* 5 waiting spaces and 2 parking spaces (drying and hand finishing) at the exit end for each car washing device or stall. One employee parking space for each employee on duty.

(14) Dance halls, bingo halls, assembly and exhibition halls: 1 space for every 50 square feet of floor area.



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- (15) Drive-in theater: 1 space for each automobile station, plus 1 space per employee.
- (16) Game rooms and pool halls: 1 space for every 2 patrons at maximum capacity, plus 1 space for every 2 employees on the largest work shift.
- (17) Golf driving range: 1 space per tee, plus 1 space per employee on the largest work shift.
- (18) Miniature golf: 1½ spaces per hole, plus 1 space per employee on the largest work shift.
- (19) Other outdoor commercial entertainment: 1 space for every 4 patrons at maximum capacity, plus 1 space for every 2 employees on the largest work shift.
- (20) Theaters, concert halls and meeting and banquet halls; 1 space for every 2½ seats at capacity.
- (21) Convenience food stores, mini-markets and carry-outs: 1½ spaces for every 200 square feet of floor area, plus 1 space for each employee.
- (22) Drive-through stores, including photo kiosks and freestanding automatic teller machines: 1 space for each employee, plus off-street stacking space for 5 vehicles, plus 1 space for each 200 square feet of sales area open to the public.
- (23) Fraternal and social associations and private clubs: 1 space for every 50 square feet of floor area in assembly or meeting rooms, plus 1 space for every 200 square feet of other floor area.
- (24) Hotels, motels and bed and breakfasts: 1 space per room or suite, plus 1 space for every 3 employees on the largest work shift, plus 1 space per 3 persons to the maximum capacity of each public meeting and/or banquet room, plus 50% of the spaces otherwise required for accessory uses (that is, restaurants and bars).
- (25) Restaurants, fast food: 1 space per 50 gross square feet of floor area, plus 1 space per employee on the largest shift with a minimum of 25 total spaces and with off-street stacking space for 8 vehicles for each drive-in window, with such stacking spaces to be located behind the point where a drive-in order is placed.
- (26) Taverns, bars and nightclubs: 1 space for every 50 square feet of gross floor area, plus 1 space for each employee on the largest work shift.
- (27) Vehicle sales and service: 1 parking space for each 800 square feet of floor area, plus 1 space for each 3,000 square feet of open lot are devoted to the sale and display of motor vehicles.

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(28) Barber and beauty shops: 2 spaces for each chair and 1 space for each employee.

(F) *Light industrial uses.*

(1) Construction trades and contractor offices and industrial craft shops: 1 space for every 300 square feet of floor area, plus 1 space for every business vehicle.

(2) Lumberyards and building materials sales: 1 parking space for each 800 square feet of floor area, plus 1 space for every 3,000 square feet of lot area devoted to the storage and display of building materials.

(3) Manufacturing, printing and publishing establishments and laundry and dry cleaning plants: 1 space for each employee on the largest work shift, plus 1 visitor' parking space for every 10,000 square feet of floor area, plus 1 space for every company vehicle regularly stored on the premises.

(4) Recycling centers: 1 space for each employee or volunteer on the largest work shift, plus 1 parking space for each collection vehicle and 2 drop-off spaces for each bay and/or collection vehicle and container.

(5) Warehouses and mini-warehouses: 1 space for every 4,000 square feet of gross floor area, plus 1 space per employee on the largest work shift.

(6) Wholesaling facilities: 1 space for every 300 square feet of office and sales area, plus 1 space for every 1,000 square feet of warehouse and storage area, plus 1 space per employee on the largest work shift.

(G) *Heavy industrial, transportation and utility uses.*

(1) Heavy equipment rental, sales and storage: 1 space for every 800 square feet of floor area, plus 1 space for every 3,000 square feet of lot area devoted to the sale and display of vehicles.

(2) Heavy industry: 1 space for each employee on the largest work shift, plus 1 space for each company vehicle normally stored on the premises, plus 1 space for every 10,000 square feet of lot area and floor area in industrial use.

(3) Public service yards and garages: 1 space for each employee on the largest work shift, plus 1 space for each business vehicle.

(4) Public transit stations: 1 space per employee, plus 1 space per 3 patrons to capacity.

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(5) Public utilities: 1 space for every 250 square feet of floor area, plus 1 for each business vehicle, where applicable, with a minimum of 2 spaces.

(6) Transportation terminals: 1 space for every 5 seats in the waiting area, plus 1 space for every employee on the largest shift, plus 1 space for every company vehicle normally parked on the premises.

(H) *Reduction of nonresidential parking requirements.* In order to prevent the establishment of a greater number of parking spaces than is actually required to serve the needs of nonresidential uses, a conditional reduction of required parking spaces may be permitted. The Planning Board may authorize up to a 15% reduction in required parking spaces and the Board of Zoning Appeals may authorize up to a total reduction of 30% of the required spaces. In either case, the property owner must provide evidence based on parking studies of the same use or similar uses indicating that the reduction in required parking spaces will not result in traffic congestion or additional on- street parking. In order to receive approval of a reduction in spaces in excess of 15%, the following conditions must be met:

(1) The design of the parking lot, as indicated on the development plan, shall designate sufficient space to meet 85% of the parking requirements of this subchapter. The plan shall also illustrate the layout for this number of parking spaces.

(2) The conditional reduction shall provide for the establishment of not less than 70% of the required number of parking spaces. This initial phase of the parking provision shall be clearly indicated on the plan.

(3) The balance of the parking area conditionally reserved shall not include areas for required buffer yards, setbacks, or areas which would otherwise be unsuitable for parking spaces due to the physical characteristics of the land or other requirements of this chapter. This parking area which is reserved shall be located and have characteristics so as to provide amenable open space should it be determined the additional parking spaces are not required. The developer shall provide a landscaping plan for the reserved area with the land development plan.

(4) The developer shall enter into a written agreement with the City that, any time after 1 year following the issuing of the last occupancy permit, the additional parking spaces shall be provided at the developer's or owner's expense should the Zoning Administrator determine that the required number of parking spaces are necessary to satisfy the need of the particular development.

(5) If it is determined by the Planning Board following total occupancy of the building, that the reserved area will not be needed for additional parking, they may recommend to the Board of Zoning Appeals that a portion of such reserved area be permitted to be used for expansion of the building, should plans for such be permitted.

(1974 Code, § 154.078) (Ord. 26-93, passed 8-16-1993; Am. Ord. 19-01, passed 10-15-2001)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.079 OFF-STREET LOADING SPACES REQUIRED.**

**§ 154.079 OFF-STREET LOADING SPACES REQUIRED.**

In any zoning district every building or structure built, structurally altered, enlarged or having a change of use, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall be provided with off-street loading spaces or berths as required in this section.

(A) *Design standards.*

(1) *Dimension.* Each off-street loading space shall be at least 10 feet in width by 25 feet in length with a vertical clearance of 15 feet or more and adequate area for ingress and egress.

(2) *Access.*

(a) Each required loading berth shall be served by access to a street, service drive, or alley in a manner that will not interfere with traffic or parking lot circulation.

(b) No loading space shall be located in such a manner as to allow a vehicle to back onto a public street or to extend into the right-of-way while being loaded or unloaded.

(c) All access to loading spaces shall meet the access control requirements of § 154.073.

(3) *Surface and drainage.* All loading areas shall be graded as necessary and improved with bituminous or portland cement and shall be provided with adequate drainage as determined by the City Engineer upon his or her review of the submitted plan.

(4) *Location.* Off-street loading areas shall not be located in any front yard, street side yard or within 25 feet of any street right-of-way, except for area used for the occasional drop-off or pick-up of goods in vans, step-vans, or panel trucks. No loading space shall be located within a required front or side yard when adjacent to any "R" District. No permitted or required loading space shall be closer than 50 feet to any lot in any "R" District unless wholly enclosed within a building.

(5) *Marking.* Designated loading areas shall be marked as such on the surface

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of the loading area with paint or permanent marking materials and maintained in clearly visible condition.

(B) *Utilization.*

(1) No storage, motor vehicle repair work or service of any kind other than for an emergency shall be permitted within any required loading berth.

(2) Space allocated to be a required loading berth shall not be used to satisfy any requirement of this chapter for off-street parking spaces.

(C) *Computation.*

(1) The term "floor area" is used for computation purposes as defined in § 154.077.

(2) Fractions of spaces shall be computed as described in § 154.077.

(D) *Spaces required.*

(1) *Institutional, public assembly and residential buildings.*

(a) Schools, hospitals, nursing homes and other similar institutional uses and mid- and high- rise residential uses: 1 loading space for 20,000 to 50,000 square feet of gross floor area and 1 space for each additional 100,000 square feet or fraction thereof.

(b) Auditoriums, gymnasiums, stadiums, theaters, convention centers and other buildings for public assembly: 1 space for 10,000 to 20,000 square feet of gross floor area and 1 space for each additional 100,000 square feet.

(2) *Offices and financial institutions.* 1 space for the first 2,500 to 75,000 square feet of gross floor area and 1 space for additional 25,000 square feet.

(3) *Retail commercial service, road service and commercial entertainment uses.* For each establishment, 1 space for the first 10,000 square feet of gross floor area and 1 space for each additional 20,000 square feet.

(4) *Industrial uses.* 1 space for every 10,000 square feet of gross floor area.

(E) *Screening and landscaping of off-street parking and loading areas.* Screening and landscaping of off-street parking and loading areas shall be consistent with the provisions of § 154.074.

(F) *Lighting of off-street parking and loading areas.* All illumination for or on all such parking lots and loading areas shall be deflected away from adjacent residential areas and shall be installed in such a manner as to allow the reduction of the amount of light in other than

normal parking hours each day. The source of illumination in all parking lots abutting a residential area shall not be more than 16 feet above the parking lot surface. Lighting must also comply with provisions of § 154.061.

(G) *Maintenance of off-street parking and loading areas.* Parking and loading facilities shall be kept free from refuse and debris and in good structural condition through periodic maintenance by the owner or his or her agent, who shall also be responsible for snow removal.

(1974 Code, § 154.079) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.080 TRANSPORTATION AND ACCESS CONTROL STANDARDS.**

**§ 154.080 TRANSPORTATION AND ACCESS CONTROL STANDARDS.**

The standards in § 154.074 are intended to regulate access to public street and mitigate the impact that a development is expected to have on the city's thoroughfare system. These regulations also address access for emergency vehicles and visibility standards. These standards are designed to minimize safety hazards, traffic congestion, and other negative impacts which can result when land use development is not carefully coordinated with the street and roadway system.

(A) *Roadway access.* All roadway classifications as specified in this section are further described in § 154.04 of this chapter and the Official Thoroughfare Plan of Tipp City.

(1) *Residential streets and residential collectors.* All residential uses are permitted to take direct access to residential streets, except that the City Engineer may require larger scale residential complexes to also have access from an arterial street. Other uses may be permitted direct access to a residential street only if such access would, in the opinion of the City Engineer, improve traffic safety, as, for example, on sites located at the intersection of a residential and an arterial street, or if a traffic impact report conducted pursuant to the provisions of § 154.074 indicates that such use would have no negative impact on the residential street.

(2) *Commercial, industrial and multi-family collectors.* Single-family detached residential uses shall not be permitted direct access to major collector or arterial thoroughfares. Existing single family residences presently located upon a corner which fronts upon a major collector or arterial thoroughfare are encouraged to provide access from a

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residential side street, closing off the frontage driveway wherever possible.

(3) *Arterials.* Any land use other than single family residences may be permitted access to an arterial; however, any use wishing to take access to an arterial street shall be subject to review by the City Engineer.

(4) *Alignment across the street.*

(a) Driveways or roadways shall either be directly opposite other driveway or street intersections or shall be offset by the minimum driveway spacing distances shown in Table 22-1, except in locations where there is a raised median in the street.

(b) Single-family and two-family residential uses shall be exempt from this provision.

(5) *Dimensions of a driveway.*

(a) *Non-residential uses (including multi-family residential uses):*

1. All 2 lane driveways shall have a minimum width of 24 feet. All 1 lane driveways shall have a minimum width of 16 feet. In no case shall any driveway exceed 30 feet in width.

2. Aisle width for off-street parking areas shall be as provided in Table 21-1.

(b) *Single-family and 2-family residential uses.* A driveway for a single-family or 2-family residence shall have a minimum width of 8 feet for single lane and a minimum of 16 feet for a two lane, and a minimum length of 18 feet, from the right-of-way. The maximum width for a single lane driveway shall not exceed 16 feet and the maximum width for a two lane shall not exceed 24 feet at the right-of-way line. The minimum width for a 3 lane residential driveway shall be 20 feet and the maximum shall be 30 feet at the right-of-way line if there is a 3-vehicle garage with the doors facing the street and the building is setback 40 feet or less.

(6) *Intersection angle.* A driveway shall intersect a cross-street at, or nearly at, a right, 90 degree angle. In no case shall any intersection have an angle less than 75 degrees.

(7) These access control standards may be modified and increased or decreased upon recommendation to the Zoning Administrator by the City Engineer, in order to accommodate unique safety or design situations or if indicated by a traffic impact analysis (see § 154.074). In cases where these standards are recommended to be modified, the Traffic Engineer shall make a report which documents the facts of the case and the rationale for modifying these requirements.

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(8) The standards in this section shall not be used to totally prohibit access to a site which meets all other standards for development under the provisions of this chapter; however, any access point which is permitted shall meet these access control standards to the maximum extent possible and shall meet all minimum design specifications for access points on arterials.

(9) *Commentary.* Access control guidelines deal primarily with the frequency of driveways and the amount of interference to through traffic on the street from vehicles using the driveways. The overall objective of access control regulations is to minimize the number of driveways and access points, and these regulations should be interpreted to that end whenever possible.

(10) If there are many driveways, points of conflict and potential hazards will increase. No single driveway will collect sufficient traffic to justify the installation of a traffic control signal. If, however, smaller flows are collected at a single point, the resultant traffic may be of sufficient intensity to warrant specialized traffic control.

(11) Driveways located in proximity to a major intersection have an especially adverse influence on the intersection movements due to left turn maneuvers, both in and out of the driveway. The farther from an intersection a driveway can be located, the less it will adversely affect the safe operation of the intersection. Finally, the location of driveways and intersecting residential streets on both sides of the street must be considered when locating a proposed driveway.

### (B) *Clear view required at intersections.*

(1) In order to provide a clear view to the motorist (from the motorist's eye at 3.75 feet above street level to an object 4.5 feet above the road surface) there shall be a triangular area of clear vision free of any obstructions where 2 driveways, alleys and/or streets intersect. The size of this triangular area shall be a function of street width and speed.

(2) On any portion of a site that lies within the triangle described, nothing shall be erected, placed, planted or allowed to grow in such a manner so as to impede vision between a height of 3 feet and 8 feet above the driveway, alley and/or street grades.

(3) The triangular area shall be formed by a point at the location of the driver's eye (15 feet behind the curb or edge of roadway), the approaching vehicle, and the potential point of impact. When the cross street has more than 2 lanes, sight triangles shall be formed using the vehicle in the lane nearest the centerline approaching from the right and the vehicle nearest the curb approaching from the left.

(4) Minimum required sight distance.

### ***Minimum Required Sight Distance***



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***Per 10 mph of posted cross street speed limit***

<b><i>Approach Street Type</i></b>	<b><i>2 Lane Cross Street</i></b>	<b><i>4 Lane Cross Street</i></b>	<b><i>6 Lane Cross Street</i></b>
Driveway; Minor Residential; Major Residential	100 ft.	120 ft.	130 ft.
Residential Collector; Multi-Family Collector	130 ft.	150 ft.	170 ft.
Commercial and Industrial Collector; Arterial	170 ft.	200 ft.	210 ft.

(C) *Responsibility for thoroughfare improvements.* Upon recommendation by the City Engineer with concurrence by the Planning Board, the developer may be responsible for providing special thoroughfare improvements such as dedication of right-of-way and/or provision of additional pavement where deemed necessary to accommodate the additional traffic to be generated by the subject development.

(D) *Access for emergency vehicles and apparatus.*

(1) *Purpose.* The purpose of this section is to facilitate rapid and effective emergency service by ensuring that all premises that the Tipp City Police and Fire Division may be called to in case of an emergency shall be readily accessible for effective safety operations.

(2) *Applicability.* Every nonresidential use permitted by this chapter shall provide access for emergency vehicles and apparatus from a public street as follows:

(a) A fire lane shall be required to provide access to any opening of any structure which is more than: 150 feet from the nearest street right-of-way when the structure is 30 feet or less in height; 50 feet from the nearest street right-of-way when the

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structure exceeds 30 feet in height. However, when emergency vehicles and apparatus are provided access by means of either buffer yard area or adjoining property to any portion of a structure more than the above stated distances from a street right-of-way, the Fire Chief may waive these requirements.

(b) In addition to the situations above which require a fire lane, a fire lane to provide access to any part of a building may also be required if the Fire Chief determines that the distance of a structure from the nearest hydrant, the configuration of structures on a site, or other special characteristics of the site otherwise inhibit rapid, effective emergency access, or if the use of the structure is classified as a high hazard use by the Tipp City Fire Chief.

(3) *Fire lane standards.* A fire lane where required, shall comply with the following standards:

(a) A fire lane shall provide clear, unobstructed access for vehicles and apparatus at all times.

(b) Traffic signs prohibiting stopping of motor vehicles shall be required. These shall consist of such wording as established by the Engineer and shall be spaced not less than 50 feet, nor more than 70 feet, apart in that area designated as a fire lane by the Fire Chief.

(c) Fire lanes shall be a minimum clear width of 20 feet (curb to curb) and the design and construction of fire lanes shall comply with the locally adopted fire code.

(d) An alley may contribute all or part of a required fire lane if it meets all other requirements of this section.

(4) Alternatives to fire access lanes. In lieu of meeting the standards specific above, a developer may substitute alternative means (including, but not limited to, fire resistant roofs, fire separation walls, space separation, and automatic fire extinguishing systems) to ensure the access necessary for effective safety operations, upon approval of the Fire Chief.

(E) *Transportation impact report.*

(1) *Intent.*

(a) The transportation impact report is intended to identify the transportation impacts which are likely to be generated by a proposed use and to identify improvements required to ensure safe ingress to and egress from a proposed development, maintenance of adequate street capacity, and elimination of hazardous conditions.

(b) Commentary. The maintenance of a safe transportation network is important to the public safety and welfare. The need to identify all hazards or problems created by a proposed development or the location for which it is proposed is a first essential step for the

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protection of the public. The transportation impact report allows the identification of roadway and traffic problem which may result from a particular development.

(2) *Applicability.* A transportation impact report shall be required in the following cases:

(a) Any use which, will generate in excess of 250 trips per acre per day based upon estimate by the City Engineer.

(b) Any permitted or special use for which a transportation impact report is required. Commentary. All uses which, because of size, density, traffic generation rates, or location, can reasonably be expected to pose a traffic problem are required to submit a transportation impact report so that the nature of any such problem can be determined and regulated.

(3) *Contents of transportation impact report.* The transportation impact report shall be

prepared using the format supplied by the City Engineer, and shall include the following data and information which when available, can be obtained from the city.

(a) Areas to be included:

1. Developments wishing to take access from an arterial street shall provide an analysis of the traffic impact from the proposed point of access to the nearest signalized intersections in all directions, or up to a .5 mile radius, whichever is less.

2. Developments wishing to take access from a collector street shall provide an analysis of the traffic impact from the proposed point of access to the nearest intersections of the collector with an arterial in all directions, or up to a .5 mile radius, whichever is less.

3. Developments wishing to take access from a residential street shall provide an analysis of the traffic impact from the proposed point of access to the nearest arterial streets in all directions, or up to a .25 mile radius, whichever is less.

4. For large developments which generate between 250 and 1,000 vehicle trips per 1 hour between 3 p.m. and 6 p.m., the City Engineer may require the traffic impact report to include an analysis of all arterial and collector roadways within 1 mile of the proposed site.

5. For developments which will generate over 1,000 trips per 1 hour between 3 p.m. and 6 p.m., the analysis may be required for a radius of up to 3 miles of the proposed site.

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(b) Description of existing conditions. The report shall contain information clearly describing in written or graphic form:

1. The proposed land use of the site and anticipated stages of construction.
2. The existing street system including major intersections, ingress and egress locations, roadway and right-of-way widths, traffic signals and traffic control devices and public transportation facilities.
3. Any proposed changes in the street system.
4. A 24 hour traffic count on all roadways which have direct access to the proposed development site and the existing average daily traffic volume and the highest average peak hour volume for any weekday hour between 3 p.m. and 6 p.m.

(c) Transportation impact of the development. The average weekday trip generation rate (trip ends) and the highest average hourly weekday trip generation rate between 3 p.m. and 6 p.m. for the proposed use shall be determined from figures provided by a qualified traffic engineer. Commentary. This requirement provides accurate data on the existing and anticipated traffic condition of roads in the immediate vicinity of a proposal. The daily figures and peak hour figures are both important. The peak hour traffic volume is the volume that roads are designed to handle, and it is this figure which forms the basis for determining whether any roadway capacity improvements will be necessitated as a result of the traffic impact of the proposed development.

(d) Determination of the capacity of the roadway.

1. Data and procedures contained in the Highway Capacity Manual, Special Report 87, published by the National Highway Research Board, shall be utilized to calculate the level of service of roadways as required for this transportation impact report. Roadway service volumes shall be calculated at level of service C for roads identified as arterials and at level of service D for roads identified as collectors.

2. All arterial roadways operating below level of service C (inclusive of levels D, E, and F) shall be identified as congested locations. All collector roadways operating below level of service D (inclusive of levels E and F) shall be identified as congested locations. Commentary. Level of service C is generally defined by the Highway Capacity Manual as a road whose flow is stable, but where speed and maneuverability are more closely controlled by higher volumes. Most drivers are restricted in their freedom to select their own speed, change lanes or pass, although a relatively satisfactory operating speed is still obtained. According to the Highway Capacity Manual 45 miles per hour has been determined to be a satisfactory operating speed for level of service C for multi-lane highways without access control. Level of service D is defined as a condition approaching unstable flow, with tolerable

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operating speeds being maintained though considerably affected by changes in operating conditions. Fluctuations in volume and temporary restrictions to flow may cause substantial drops in operating speeds. Drivers have little freedom to maneuver, and comfort and convenience are low, but conditions can be tolerated for short period of time. The roads to which this analyses is to be applied are collector and arterial highways which must be designed to retain these levels of service if they are to fulfill their function of moving people quickly from one part of the region to another.

### (e) Determination of the capacity of intersections.

1. A load-factor analysis shall be conducted for 1 24-hour period on a weekday on all intersections within the study area. The highest average hourly load factor between 3 p.m. and 6 p.m. shall also be recorded. A maximum load factor of 3/10 are operating below level of service C (inclusive of levels D, E, and F) and shall be identified as congested locations.

2. A maximum load factor of 7/10 will be allowed for intersections involving 2 collector roads. All such intersections with a load factor greater than 7/10 are operating below level of service D (levels E and F) and shall be identified as congested locations.

3. To determine intersection capacity at levels of service C and D, figure 6.8 and Tables 6.4, 6.5, and 6.6 of the Highway Capacity Manual shall be consulted.

(f) Conclusions: analysis of transportation impact. The projected total future peak hour traffic demand shall be calculated for all roads fronting on a proposed site and all intersections within the study area. This demand shall consist of an assumed normal increase of traffic volume of 2% per year (or the Regional Planning Commission projections, whichever is less) and the anticipated traffic that will be generated by the proposed development. An analysis shall be undertaken to determine if roadways and intersections will operate at the appropriate level of service following completion of the development, given the future peak hour traffic that will be generated by the proposed development. This analysis consists of the comparison of the total future peak hour intersection and roadway traffic demand with the service volumes for levels C and D computed in subdivision (d) above. All roadways and intersections that would operate below the required level of service following completion of the development shall be considered deficient.

(4) Mitigating traffic impacts. If the transportation impact analysis conducted pursuant to the provisions of subdivision (3) above results in the conclusion that the level of service of adjacent roadways and/or intersections will become deficient prior to the proposed development could not handle the increased load, any or all of the following mitigating steps may be required at the developer's expense by the Zoning Administrator upon recommendation

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by the City Engineer, prior to approval of a Zoning Certificate.

- (a) Limitation of the number and/or location of access points.
- (b) Design of access points to prevent certain turn movements.
- (c) Dedication of and/or improvement to the right-of-way abutting the development of improvements in the immediate vicinity of the development to add turn lane, through traffic lanes or allow redesign of intersections or access points to accommodate additional traffic or turning movements.
- (d) Installation of traffic signals or other traffic control devices as may be warranted by the Uniform Traffic Control Manual.
- (e) Development of the site at a lower intensity than originally proposed.
- (f) Commentary. In determining which mitigating steps should be taken, consideration should be given to: the extent to which the proposed developed will worsen an existing traffic problem (that is, percent of traffic increase; peak vs. nonpeak increase, and the like.); how the proposal fits in with the city's long-range economic development goals; and the ability of the city to participate in the cost of roadway improvements which would have city-wide or neighborhood-wide benefit and help to implement adopted city plans.

(1974 Code, § 154.080) (Ord. 26-93, passed 8-16-1993; Am. Ord. 45-02, passed 12-2-2002)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / OFF-STREET PARKING AND LOADING, ACCESS CONTROL AND TRANSPORTATION STANDARDS / § 154.081 FACILITIES FOR VEHICLE, TRAILER AND BOAT SALES.**

**§ 154.081 FACILITIES FOR VEHICLE, TRAILER AND BOAT SALES.**

The storage or sale of merchandise including vehicles, trailers, and boats, or the repair of vehicles in off-street parking areas zoned for commercial and industrial facilities is prohibited except for the following:

- (A) The owner or lessee of the off-street parking area also owns the vehicle, trailer or boat being displayed for sale; or
- (B) The off-street parking area is owned or leased by an owner or lessee in the business of licensed retail vehicle, trailer or boat sales at the same location.

(Ord. 10-91, passed 4-1-1991)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS**

***SIGN REGULATIONS***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.090 PURPOSE.**

**§ 154.090 PURPOSE.**

The purpose of this subchapter is to protect the general health, safety, morals and welfare of the community by providing an instrument for protecting the physical appearance of the community and for encouraging high quality, effective outdoor graphics for the purposes of navigation, information and identification. Specifically, it is the intent of this subchapter to provide businesses in the municipality with equitable sign standards in accord with fair competition and aesthetic standards acceptable to the community, to provide the public with a safe and effective means of locating businesses, services and points of interest within the municipality, and to provide for a safe vehicular and pedestrian traffic environment. This subchapter is based on the premise that signs are as much subject to control as noise, odors, debris and other similar characteristics of land use, that if not regulated, can become a nuisance to adjacent properties or the community in general, or depreciate the value of other properties within the community. It is also the intent of this subchapter, as with the entire City of Tipp City Zoning Code, to guarantee equal treatment under the laws through accurate record keeping and consistent enforcement.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.091 SCOPE OF REGULATIONS.**

**§ 154.091 SCOPE OF REGULATIONS.**

(A) The regulations herein set forth shall apply to and govern signs in all districts. No sign shall be erected or maintained unless it is in compliance with the regulations governing location and bulk of structures for the district in which it is located, unless such sign is regulated

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by special use provision or provisions relating to variances.

(B) Signs within the RA (Old Tippecanoe City Restoration and Architectural District) shall be generally subject to the sign provisions of the underlying zoning district except as modified by special provisions within § 154.052 of the RA District.

(C) Any sign already established on the effective date of this chapter, and which sign is rendered nonconforming by the provisions herein, and any sign which, as a result of subsequent amendments hereto, shall be rendered nonconforming and shall be subject to the regulations of § 154.101(H).

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.092 DEFINITIONS.**

**§ 154.092 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED SIGN.** A sign associated with an abandoned use, a sign that remains after the termination of the business, or a sign on its immediate premises not adequately maintained and not repaired within the specified time under order of § 154.103(A).

**ADVERTISING SIGN.** A sign which directs attention to goods, services, or entertainment, sold or offered on the premises. This includes free-standing, wall mounted, projection or incidental signs.

**ANIMATED SIGN.** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene.

**AREA OF SIGN.** The surface of a sign to be included when computing maximum allowable square footage. The area includes molding and framing but excludes supporting members. Planters or other decorative supporting structures shall not be included in the computation of signage unless they exceed 24" in height or 8 feet in length in which case the entire structure shall be included in the computation of sign area. For wall mounted signs which consist of individually mounted letters, numbers or other symbols on a fascia or wall, the area of sign shall be the area of a rectangle circumscribed around the letters, numbers or other symbols. (See Appendix F, Figures 1, 2, and 3 following this chapter.)

**ATM (AUTOMATED TELLER MACHINE).** An electronically operated device used to



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conduct financial transactions on site, by means of direct computerized access. Such devices may be accessible by automobile and/or pedestrians.

**AWNING.** Canopy or marquee - a sign that is mounted on or painted on or attached to an awning, canopy or marquee.

**BANNER.** A non-rigid cloth, plastic, paper, or canvas sign typically related to a special event or promotion, that is cultural, educational, charitable, or recreational in its function, under the sponsorship of a for-profit establishment or business, or a public, private nonprofit, or religious organization.

**BENCH SIGN.** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public roadway.

**BILLBOARD.** An off-premise sign directing attention to a specific business, product, service, entertainment or other activity sold, offered, or conducted off-site.

**BULLETIN BOARD.** A sign not exceeding 15 square feet typically with a changeable copy used to identify events for public and semi-public uses.

**BUSINESS.** A sign which directs attention to a business, profession, service, product or activity sold or offered upon the premises where such sign is located.

**CHANGEABLE COPY SIGN.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

**CHANNEL LETTERS.** The outline of a letter, border, or similar object with a vertical side wall to confine the lighting on the face either to restrict vision at an angle or to prevent light spillage over adjacent areas.

**COMMUNITY ACTIVITY/SPECIAL EVENT.** An activity or event that is open to the general public, utilizes city facilities or services, and sponsored by a public, private nonprofit or religious organization that is educational, cultural, or recreational in function. Charitable events sponsored by for-profit organizations are also considered community activities. Examples of a community activity are a school play or a church fair. A special event is educational, cultural or recreational in function. Such events must be coordinated through the city. Examples of a special event are the Memorial Day Parade and the Mum Festival.

**CONSTRUCTION SIGN.** A sign advertising the development or improvement of a property by a builder, contractor, or other person furnishing services, material or labor to said premises, which sign is intended for a limited period of display and erected on the same lot as the work being done.

***CURB LAWN.*** See ***TREE LAWN.***

***DEVELOPMENT SIGN.*** A temporary sign indicating such things as the names of the architects, engineers, landscape architects, contractors, or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with respect to the development, structure, or project. This includes both private and public projects.

***DIRECTIONAL SIGN.*** A temporary or permanent sign that provides information regarding location, instructions for use, vehicle flow or functional/directional data.

***DIRECTORY SIGN.*** A sign advertising more than 1 business or listing more than 1 associate, partner, employee or agent of any business.

***DISPLAY SURFACE.*** The area intended for display of advertising.

***DOMESTIC ADVERTISING SIGN.*** A sign advertising the sale of household goods previously used by an individual or his family, when such sign is located at the place of residence of the individual or family.

***DOUBLE FACED SIGN.*** A sign having 2 display surfaces.

***DOWNTOWN DIRECTIONAL SIGN.*** See RESOLUTION NO. 35-93.

***ELECTRONIC SCOREBOARD.*** An electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on the sports field.

***ENTRY FEATURE SIGN.*** An on-premises ground-mounted sign that graphically identifies a residential subdivision and/or multifamily development. For commercial properties, see ***JOINT IDENTIFICATION SIGN.***

***ESTABLISHED GRADE LINE.*** The average finished grade for that area of the site where the sign is to be located, provided however that the height of the sign shall not be artificially increased by the use of mounding. All references to sign height are from the established grade line unless otherwise noted.

***EXEMPTED SIGNS.*** Includes public notices by governmental bodies, traffic control signs, and other official signs and notices.

***EXTENSION.*** A wall or other structure which is connected to and extended from a building.

***FLAG.*** Any fabric or bunting containing the officially recognized and adopted colors, patterns, or symbols used as the official symbol of a government, political, or corporate entity.

***FLASHING SIGN.*** Any directly or indirectly illuminated sign that exhibits changing

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natural or artificial light or color effects by any means whatsoever.

**FOR SALE/FOR LEASE SIGN.** A sign indicating the sale, rental, or lease of a structure or property.

**FREE-STANDING SIGN.** See **GROUND SIGN.**

**GAS INFLATABLE SIGN/DEVICE.** Any device which is capable of being expanded by any gas and used on a permanent or temporary basis to attract attention to a product or event. This definition includes both hot and cold-air balloons tethered or otherwise anchored to the ground.

**GOVERNMENTAL SIGN.** A sign erected and maintained pursuant to and in discharge of any government functions or required by law, ordinance, or other governmental regulations.

**GRANDFATHER CLAUSE.** See **NON- CONFORMING SIGN.**

**GROUND SIGN.** Any sign which is physically attached to a foundation. These are commonly known as free-standing, pole, pylon, monument or planter signs.

**HEIGHT.** The vertical distance from the uppermost point used in measuring the area of the sign, to the crown of the road on which the property fronts.

**HIGH-RISE/HIGHWAY ORIENTED SIGN.** An on-premise ground sign located on the parcel as an accessory use to the principal use of the property, and displayed mainly with the objective of attracting interstate highway travelers.

**HOSPITAL.** Any medical facility that is capable of retaining patients overnight.

**IDENTIFICATION SIGN.** A sign which is limited to the name, address and number of a building, institution or person and to the activity carried on in the building or institution, or the occupancy of the person.

**ILLUMINATED SIGN.** Any sign lit by or exposed to artificial lighting either by light on or in the sign or directed toward the sign.

**INCIDENTAL SIGN.** A sign having an above grade height of not more than 24 inches or a total area of not more than 8 square feet containing no advertising and typically erected to identify entrances, exits, restrooms, hours of operation, operational instructions, public utility locations, etc.

**INFORMATION SIGN.** A sign displaying necessary information for the convenience and safety of residents and visitors, and containing no advertising.

**INTERIOR SIGN.** Signs located within a structure not intended to be seen from the exterior. Signs affixed to a window or the walls enclosing the display area behind a window,

which are obviously intended for viewing from the exterior, shall be considered exterior signs.

**JOINT IDENTIFICATION SIGN.** A sign that identifies the name, through type, graphics, or other symbols, of a shopping center, office park, industrial park, or other building complex containing three or more uses allowed in addition to the permitted signs of the individual occupants.

**LOGO.** See **PRIMARY IMAGES** and **SECONDARY IMAGES**.

**MEMORIAL SIGN.** A sign, tablet or plaque memorializing a person, event, structure or site.

**MONUMENT SIGN.** A ground sign attached to a wall or a base constructed specifically for the display of the sign. A common example is a dedication plaque.

**NAMEPLATE SIGN.** A sign designating only the name and address or the name and professional occupation and address of a person or persons residing in or occupying such building or premises.

**NONCONFORMING SIGN.** A pre-existing legal or illegal sign which does not conform to the standards set forth in this code.

**OFF-PREMISE SIGN.** Any sign that is not directly related with the business or profession, or commodity or service sold or offered. Yard signs are not considered off-premise signs.

**ON-PREMISE SIGN.** Any sign related to a business or profession conducted, or a commodity or service sold or offered, upon the premises where such sign is located.

**OPEN HOUSE.** A temporary public showing of a structure available for sale, rental, or lease.

**PENNANT.** A flag or banner longer in the fly than in the hoist, usually tapering to a point.

**PLANTER SIGN.** A ground sign attached to a wall or a base constructed specifically for the display of the sign with the base designed with the capability of holding live plant material.

**PERMANENT SIGN.** Any permitted or legal nonconforming sign intended to remain in place until a change of occupancy occurs. A permanent sign must be securely attached or installed upon a building, structure, or the ground.

**POLE SIGN.** See **GROUND SIGN**.

**POLITICAL SIGN.** A sign concerning candidates for elective office or public issues.

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**PORTABLE SIGN.** Any sign that is designed to be or capable of being moved or transported, and not permanently affixed or attached to any building, structure, or grounds.

**POSTER PANEL SIGN.** An advertising structure measuring not more than 12 feet by 25 feet overall on which posters are displayed.

**PRIMARY IMAGE.** The name of the use or business identified on a sign. The primary image must be in displayed in text.

**PRODUCT SIGN.** A sign typically located in a window, advertising a product or service offered by a business.

**PROJECTED IMAGE.** An image projected onto a building, structure, or sign.

**PROJECTING SIGNS.** A sign that is wholly or partly dependent upon a building for support or suspended from a pole attached to a building. Such signs must be perpendicular to the building face upon which they are attached.

**PROMOTIONAL SIGNS.** A temporary sign that provides information regarding time, place, and the like of a special event, community activity or similar activity.

**PYLON SIGN.** See **GROUND SIGN.**

**RACEWAY.** An elongated metal enclosure used to mount individual channel lettering and to conceal related transformers and wiring.

**REAL ESTATE SIGN.** Any sign advertising the sale, lease, rental or development of real property.

**REFACING.** Any alteration to the face of a sign involving the replacement of materials or parts. Refacing does not refer to replacing the entire sign structure or the removal of the sign.

**ROOF LINE.** The uppermost line or point of the facade or parapet of a flat roof structure, or the lower edge of an eve, gable or rake of a sloped roof structure.

**ROOF SIGN.** Any sign erected on or above the roof line of a building.

**SANDWICH BOARD SIGN.** A sign with 2 hinged boards which can be placed on the ground.

**SECONDARY IMAGE.** Any and all text, graphics, or images displayed on a sign in addition to the name of the use or business, including but not limited to pictorial representations, tag lines, products and phone numbers.

**SECTION.** In the text, the term **SECTION** refers to the Arabic numeral under which it appears in this subchapter.

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**SETBACK.** The distance from the property line and/or right-of-way line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line and/or right-of- way line.

**SIGN.** A sign is defined as any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, whether permanent or temporary, which is affixed to, painted on, represented directly or indirectly upon, or projected onto a building, structure, lot, or other device, whether mobile or affixed to the ground, and which directs attention to any object, product, place, activity, person, institution, organization, or business. This definition includes all signs visible from any public right-of-way or adjacent property, including interior signs oriented towards the exterior facade of any building or structure as well as back-lighted translucent panels or strip lighting affixed to any wall or roof where any such panels or lighting serves to identify and attract attention rather than illuminate space for human activity.

**SIGN FACE.** The surface intended for the display of information on the sign.

**SIGN STRUCTURE.** The supporting unit of a sign face, including but not limited to frames, braces and poles.

**SINGLE FACE SIGN.** A sign having 1 display surface.

**STREAMER.** A ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between 2 or more supports.

**SUBCHAPTER.** Refers to §§ 154.090 through 154.106, in their entirety, as well as Appendix F following this chapter.

**SUBDIVISION SIGN.** A sign advertising the sale or development of subdivision lots, parcels, or tracts and erected upon the property being subdivided and advertised for sale.

**TEMPORARY SIGN.** A banner, pennant, poster display or illustration which is affixed to or painted upon or represented directly or indirectly upon a building, structure or piece of land and which directs attention to an object, product, place, person, institution, organization, or business and may be constructed of cloth, canvas, plastic sheet, cardboard or other life materials and which is intended to be displayed for a limited period of time. A temporary sign permit is required and may be issued administratively for a period not to exceed 60 total days in a calendar year, and not more than 30 consecutive days in a calendar year. Requests for more than 60 total days in a calendar year or 30 consecutive days in a calendar year must be approved by the Planning Board.

**TRAILBLAZER SIGN.** A government sign identifying company logos for lodging, gasoline stations, restaurants and other such establishments.

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**TRAILER SIGN.** Any sign which is attached to, supported by, or part of a structure which is designed to move on trailer wheels, skids, or other similar devices, or transported, pushed, or pulled by a motor vehicle.

**TREE LAWN.** That portion of a public right-of-way lying between the back face of the curb and the leading edge of the sidewalk and/or the back edge of the right-of-way, if no sidewalk is installed.

**WALL SIGN.** Any sign attached to, painted on, or erected against the inside or outside wall of a building or structure, with the exposed display surface of the sign in a plane parallel to the plane of the building or structure and extending less than 14 inches from the building or structure.

**WARNING SIGN.** Any sign indicating danger or a situation which is potentially dangerous.

**WINDOW SIGN.** Any signs, posters, symbols and other types of identification or information about the use or premises directly attached to the window of a building or erected on the inside of the building and visible from any public right-of-way or adjacent property.

**YARD SIGN.** Any sign display intending to display an expression or a political, religious or personal message, generally temporary in nature.

(Ord. 42-03, passed 12-15-2003; Am. Ord. 05-06, passed 2-21-2006)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.093 PERMIT REQUIRED.**

#### **§ 154.093 PERMIT REQUIRED.**

All signs located on land within or hereafter annexed to the municipality shall comply with this subchapter unless specifically exempt by § 154.098. No person shall locate or retain any sign, or cause a sign to be located, relocated, altered, modified, or retained unless all provisions of this subchapter have been met. To ensure compliance with these regulations, a sign permit shall be secured from the Zoning Administrator or designee for each sign unless such sign is specifically exempted in this subchapter. Any sign requiring a structural steel foundation and/or electricity must obtain foundation and/or electric permits from the Miami County Building Regulations Department, as well as a sign permit. A permit fee will be required when and only when the permit is approved. Fees may be paid by cash, check, or money order. No permit shall be issued until a completed application and fees have been submitted. Prior to issuance of a permit, signs within the Old Tippecanoe City Restoration and Architectural District must be

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approved by the Restoration and Architectural Review Board. Such signs may be subject to different or more stringent criteria as adopted for the Restoration and Architectural District.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.094 SUBMITTAL REQUIREMENTS FOR SIGN PERMITS.**

**§ 154.094 SUBMITTAL REQUIREMENTS FOR SIGN PERMITS.**

When applying for a sign permit, the following materials must be submitted:

- (A) A completed application and fee for each requested sign.
- (B) Scaled elevation drawing(s) of proposed sign(s).
- (C) Foundation and anchoring drawing(s) of proposed sign(s).
- (D) A dimensioned site plan showing the location of proposed sign(s) and adjacent buildings, other structures, and the lot including dimensions thereof.
- (E) For wall signs, a building elevation drawn to scale showing the proposed wall sign and the dimension from established grade to the top of the sign.
- (F) For ground signs, a sign base landscaping plan.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.095 PROHIBITED SIGNS.**

**§ 154.095 PROHIBITED SIGNS.**

The following signs or similar devices are prohibited and shall not be erected or maintained unless otherwise specifically permitted under this subchapter: Off-premise signs, trailer signs, search lights, laser lights, pennants, streamers, spinners, bench signs, portable signs, roof signs, billboards, gas-inflatable signs, changeable copy signs (except for gasoline station price signs and drive-thru menu boards under § 154.101 (J) and (L)), flashing signs, projected images and animated signs, any sign which utilizes illumination by means of bare bulbs or flame or both, signs with moving or moveable parts, and any look-alike version of any of these prohibited sign types. Projecting signs are permitted only in the Restoration and Architectural



Review District.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.096 PROHIBITED SIGN LOCATIONS.**

**§ 154.096 PROHIBITED SIGN LOCATIONS.**

Signs may not be installed in any of the following locations:

- (A) In any public right-of-way, unless specifically authorized by this subchapter and the City Engineer;
- (B) In any utility easement, site-line easement, or no-build zone;
- (C) In any public park or other public property without express written consent of the City Manager or designee;
- (D) On any traffic control signs, construction signs, fences, utility poles, street signs, trees or other natural objects;
- (E) In any location where the view of approaching and intersecting traffic would be obstructed. No sign shall be located so as to interfere with the safe movement of vehicles or pedestrians entering, leaving, or crossing a public right-of-way;
- (F) In any residential area, except as expressly permitted in §§ 154.097, 154.098, 154.101 of this subchapter, and Appendix F following this chapter;
- (G) On any property without the prior authorization granted by the property owner on which any sign is to be placed.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.097 COMMUNITY ACTIVITIES AND/OR SPECIAL EVENTS.**

**§ 154.097 COMMUNITY ACTIVITIES AND/OR SPECIAL EVENTS.**

- (A) A community activity or special event may be promoted by installing a street banner between the designated light poles within the historic district. The installation of these

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banners is coordinated through the Clerk of Council's Office. All banners are a standard size, installed by the city and limited to a maximum of three colors.

(B) A community activity and/or special event, as defined in § 154.092, shall be limited to a maximum of 2 off-site promotional signs. These signs are considered temporary signs, and a sign permit is required before installation. A temporary sign permit may be obtained from the Zoning Administrator or designee for up to 14 days. The application and permit fees, as determined by Council, are included in the fee schedule available from the Community and Economic Development Department. Onsite community activity signage to be used ONLY for the duration of the event, with the exception of banners, does not require a permit. The maximum size permitted is 4 feet by 4 feet.

(1) The event must be open to the public and be non-discriminatory. Free admission is not a requirement.

(2) Community activity and/or special event promotional signage shall not contain any commercial advertising. If an organization is sponsoring the event, the title of the organization may be used on promotional signage.

(3) Promotional signs may not exceed 6 square feet in area and 3 feet in height.

(4) No more than 3 colors shall be included on such sign(s), including black and white.

(5) Such signs shall not be illuminated.

(6) Promotional signs shall not be displayed more than 14 days immediately preceding the event and shall be removed no later than 24 hours following conclusion of the event.

(7) Directional signs may not exceed 2 square feet in area and 1 foot in height.

(8) Directional signs shall be installed no more than 24 hours immediately preceding the event and shall be removed within 24 hours following conclusion of the event.

(C) Street banner - see § 154.060

(Ord. 42-03, passed 12-15-2003)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.098 SIGNS NOT REQUIRING A PERMIT. (EXEMPT)**

**§ 154.098 SIGNS NOT REQUIRING A PERMIT. (EXEMPT)**

The following signs do not require a permit, but are subject to the restrictions listed in §§ 154.096, 154.097, and 154.099 of this subchapter, and Appendix B following this chapter, unless expressly exempted. Nothing in this section shall be construed to allow any sign which is prohibited in § 154.095, unless any such sign is expressly permitted.

(A) The flag, pennant, or insignia of any nation, state, city or other political unit and/or any corporate flags shall be limited to not more than 4 per zoning lot. The area and height of such flags and poles should be determined according to the following tables (modeled after Public Law 829, "The Flag Code"):

<i><b>Public Display (not home-use)</b></i>	
Pole Height	Maximum Flag Size
20'	4' by 6'
25'	5' by 8'
30-35'	6' by 10'
<i><b>Public Display (not home-use)</b></i>	
40-45'	6' by 10' - 8' by 12'
50'	8' by 12' - 10' by 15'
60-65'	10' by 15' - 10' by 19'
70-80'	10' by 19' - 12' by 18'
90-100'	20' by 38' - 30' by 50'
<i><b>Home-Use</b></i>	
15 - 20'	3' by 5'
25'	4' by 6'

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(B) *Garage/Yard Sale Signs.* One such sign may be posted only on the property where the event is being held (two if on a corner lot), no more than 24 hours immediately preceding the event and must be removed no more than 2 hours after the event has ended. The maximum height shall not exceed 3 feet above grade and shall not exceed 4 square feet.

(C) *Governmental Signs.* Governmental signs shall include traffic or similar regulatory devices, official "Welcome to Tipp City" signs, legal notices, warnings at railroad crossings, trailblazers, or any

other such sign required by law. Such signs shall be consolidated with other governmental signs whenever possible.

(D) *Public Information Signs.* Public information signs established by the city, including "Neighborhood Watch," "Tree City, USA," and other such signs, provided that they do not exceed 3 square feet in area. Such signs shall be consolidated with other governmental signs whenever possible. If the sign is located in right-of-way it must be approved by City Engineer.

(E) *Public Banners.* Banners established by the City of Tipp City to promote the community and city- sponsored events and located on light/utility posts in the public right-of-way, provided that such banners are restricted to 8 square feet in area and limited to 3 colors, including black and white.

(F) *Political Signs.*

(1) Size, structure, type, location, and lighting.

(a) Political signs shall not be illuminated.

(b) Political signs shall not be larger than 32 square feet in size.

(c) Because of the nature of materials typically used to construct political signs, to avoid the unsightliness of deteriorating signs and all safety concerns which accompany such a condition, political signs must be removed or replaced when sign is deteriorated. The City may remove any deteriorated sign and charge the expenses for the removal to the owner of the property on which the sign is displayed. Any unpaid charges may be assessed in the form of a lien against the owner of the property.

(d) Political signs shall not be displayed in the right-of-way.

(e) Political signs may be displayed in vacant lots so long as consent of the property owner to display the political sign is obtained.

(f) No political sign may be attached to or supported by a tree or utility pole.

(g) Any political sign containing glass in its construction shall use

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safety or wire reinforced glass.

(h) No pennants, banners, streamers, spinning, flashing or similar moving devices shall be permitted.

(i) All political signs shall be secured in such a manner as to prevent swinging or other significantly noticeable movement resulting from the wind.

(j) Registration is required on forms provided by the City for all political signs prior to their erection within the City limits.

(G) *Street address signs.* Signs bearing only the street address of the properties) on which they are located. For residences, such numbers must consist of Arabic numerals no less than 3 inches nor more than 8 inches in height. For nonresidential uses, maximum number height varies according to front setback. If the setback is less than 100 feet, the maximum number height is 12 inches. For setbacks between 100 and 200 feet, the maximum height is 18 inches. For setbacks over 200 feet, the maximum height is 24 inches. All street address signs shall contrast to the color of the surface on which they are mounted and shall be clearly identifiable from the street. Every building is required to post its street address. See §§ 150.50 through 150.52.

(H) *Residential For Sale/For Lease Signs.* Signs indicating the sale, rental, or lease of residences, provided such signs are limited in size to 7 square feet in area and 4 feet in height in all residential areas. Signs are prohibited in the right-of-way or curb lawn. Free-standing signs must be located so that they do not interfere with the safe movement of vehicular or pedestrian traffic, and all signs shall be removed within 14 days after the sale, rental, or lease has occurred. Only one such ground or window sign per street frontage is permitted, only on the lot for sale/lease/rent.

(I) *Commercial and Industrial For Sale/For Lease Signs.* Signs indicating the sale, rental, or lease of commercial or industrial real estate are limited to 16 square feet in area and 6 feet in height for lots with less than 100 feet of street frontage and 32 square feet in area and 8 feet in height for lots with street frontage of 100 feet or more. Individual tenant spaces within a parcel are allowed a window or wall sign no larger than 16 square feet in area. Signs are prohibited in the right-of-way or curb lawn. Freestanding signs must be located so that they do not interfere with the safe movement of vehicular and pedestrian traffic and must be removed within 14 days after the sale, rental, or lease has occurred. Only 1 such sign per street frontage is permitted.

(J) *Open House Signs.* Signs promoting an open house for property that is available for sale, rent, or lease, provided that only 1 such sign for each open house, (2 for corner lots). All such signs shall be installed not more than 2 hours immediately preceding the open house and removed no more than 2 hours following conclusion of the open house. Such signs may not

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exceed 7 square feet in area or 3 feet in height and must be located in such a way that would not interfere with the safe movement of vehicular or pedestrian traffic. Such ground signs may not be located within medians, public right-of-way, or off- premise.

(K) *Window Display Signs.* Signs incorporated into the window display of a business, provided such window display signs are:

- (1) Limited to 1 sign per window, with the total area of each sign not exceeding 25% of the area of the window in which it is placed, or 6 square feet, whichever is less.
- (2) Placed only in first floor level windows.
- (3) Erected for no longer than 30 days each. All previously displayed signage must be removed and not reinstalled for 30 days.
- (4) The name of the company or business is limited to a maximum of 25% of the actual size of the window display sign.

(L) *Private Traffic and On-Site Directional Signs.* Traffic and directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum of 12 square feet in area and 3 feet in height and do not interfere with safe vehicular or pedestrian traffic circulation or obstruct the view of drivers exiting onto highways or thoroughfares. Such signs may contain information such as "in," "enter," "entrance," "out," "exit," "do not enter" or similar language as approved by the Zoning Administrator or designee. Arrows indicating desired traffic movement may also be used for directional signage. Such signs must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public right-of-way.

(M) *Informational Window Signs.* Window signage with a total area of 2 square feet or less and bearing only information about entry and exit, business hours, authorized service representative information and/or discount and credit systems accepted in that establishment (e.g., American Express, MasterCard, Visa, Golden Buckeye Card). This includes product signs. Each individual sign is limited to 5 colors.

(N) *Residential Information Signs.* Information signs are allowed only when they display information necessary for the safety and convenience of residents and visitors, such as "beware of dog" and "no trespassing." Such signs may not exceed 2 square feet in area and may contain no advertising.

(O) *Scoreboards.* Scoreboards used for sporting events, provided that they are not visible from a public right-of-way or adjacent property. Selling slogans or other nonindexing messages are not permitted, except on municipally owned property as part of a scoreboard or other similar structure as approved by the Planning Board and that the total area of the selling

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slogans and/or non-indexing messages shall not be more than 100 square feet in area.

(P) *Security System Signs.* Signs displaying information about the security system protecting buildings or property, provided that such signs do not exceed 1 square foot in area.

(Q) *Construction Trailer Signs.* Signs painted on or affixed to construction trailers, vans, or other vehicles temporarily in use on a construction site.

(R) *Barber Poles.* According to state law, all barber shops must display either a barber pole or a window sign reading "Barber." If a pole is displayed, it may not exceed 28 inches in height.

(S) *Identification Signs.* Identification signs mounted flat against a structure, containing no advertising, and not exceeding 2 square feet in area.

(T) *Historical Society Signs.* Signs of historical societies containing no advertising, and not more than 5 square feet in area.

(U) *Tablets, Grave Markers, Headstones, Statuary or Remembrance of Persons or Events.* Tablets, grave markers, headstones, statuary or remembrance of persons or events that are non-commercial in nature.

(V) *Historical Significance Signs.* Signs of historical significance to the community as determined by the Restoration and Architectural Board of Review.

(W) *Sidewalk Signs within the Community Center District.* Temporary sidewalk signs may be located on the sidewalk in front of a business establishment in the CC District. Such signs shall be limited to a maximum of 1 sign for each business. Such signs shall be non-illuminated and be placed on the sidewalk only during the hours the business is open. Such signs shall not be closer than 5 feet from the back edge of the curb, shall be located a minimum of 10 feet from any other sidewalk sign and shall be a minimum of 5 feet from any of the following: fire hydrants, utility poles, park benches, street trees, traffic signs, trash receptacles, and other similar appurtenances. The signs shall be suitable for pedestrian traffic, not wider than 3 feet, and not taller than 5 feet in height including any base and shall not have a total area exceeding 15 square feet on each side or 30 square feet in area for signs with double sides. All CC District sidewalk signs shall be subject to the regulations of this subchapter applying to sign lettering, color, and movement, however, are not subject to review by the Restoration and Architectural Review Board. Any sign found to be unsafe or to present a hazard in the opinion of the City Manager or his or her designee shall be removed immediately.

(X) *Yard Signs.* Signs intended to display personal messages generally temporary in nature and not exceeding 32 square feet in area. Such signs are not permitted in "prohibited sign locations" as per § 154.096 and must be kept in a safe, presentable condition at all times.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS /  
§ 154.099 GENERAL REQUIREMENTS FOR TEMPORARY AND PERMANENT  
SIGNS.**

**§ 154.099 GENERAL REQUIREMENTS FOR TEMPORARY AND PERMANENT  
SIGNS.**

(A) *Location.* Refer to §§ 154.096, 154.100 and 154.101.

(B) *Size.* Sign area shall include the face of the entire display area not including the bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the sign. Where a sign has 2 or more display faces, the area of all faces of the sign shall be included in determining the area of the sign, unless the 2 faces are joined back to back, are parallel to each other, have identical faces and are not more than 24 inches apart. The area of a sign consisting of individual letters or symbols, either free-standing or attached to or painted on a surface, building, wall, or window, shall be considered to be that of the smallest single rectangle which encompasses all the letters and symbols.

(C) *Design.*

(1) Signs shall not resemble the color, shape, design or other characteristics of any common traffic-control device, directional or warning signs directed or maintained by the state, city, or any railroad, public utility, or similar agency concerned with the protection of the public health and safety.

(2) Signs shall display as the primary image only the name of the business in text. Any additional text, graphic, or image displayed on the sign face will be considered a secondary image and shall not exceed 20% of the maximum permitted area of the sign face.

(3) Signs shall be limited to 5 colors, including black and white. The background color is considered 1 of the 5 permissible colors, unless channel letters are used, in which case the background is not be considered 1 of the 5 permissible colors.

(4) Any multi-faced sign shall consistently display the same name, message and graphics on all faces.

(5) Reverse sides of signs shall be unobtrusive and blend with the surroundings.

(6) Reverse sides of all permanent signs and structural supports must be



completely enclosed.

(D) *Landscaping.* The base of all permanent ground signs shall be effectively landscaped with living plant material and maintained in good condition at all times. The minimum landscaped area shall extend at least 3 feet beyond all faces or supporting structures in all directions. Exposed foundations must be constructed with a finished material such as brick, stone, or wood, or be screened with evergreens to the top of the anchor bolts. The landscaped area shall include all points where sign structural supports attach to the ground.

(E) *Lighting.*

(1) Signs shall be illuminated only by the following means:

(a) By a white, steady, stationary light of reasonable intensity, directed solely at the sign and/or otherwise prevented from beaming directly onto adjacent properties or rights-of-way. Light fixtures shall be screened from view by site grading or evergreen shrubs. No exposed light sources are permitted. Signs shall not be illuminated by fluorescent lamps using more than 425 milliamperes or by transformer of more than 30 milliamperes capacity. Fluorescent lamps of 800 milliamperes may be used provided the spacing between such lamps is no less than 9 inches from center to center of lamp and such lamps are not closer than 5 inches from center lamp to inside face or faces of sign. Neon tubing may be powered by milliamperes transformers only when such tubing is used to backlight silhouetted letters or for the internal illumination of plastic faced signs or letters. Such tubing shall not be visible to the eye and shall not be closer than 1 inch to the plastic face or letter of any sign. No additional background lighting or illuminated borders or outlines shall be permitted.

(2) The level of illumination emitted or reflected from a sign shall not be of an intensity sufficient to constitute a demonstrable hazard to vehicular traffic on any right-of-way or parking lot from which the sign may be viewed.

(F) *Construction.* All signs must be constructed to meet all current building code regulations of Miami County. All signs and related surroundings shall be properly maintained and shall not show signs of rust or corrosion, exposed wiring, chipped paint or faces, cracked, broken, or missing faces, or loose materials. The structural integrity of all sign foundations must be maintained.

(G) *Development Signs.* These shall include signs indicating or promoting the development of land, facilities, or structures. Such signs must comply with the provisions of § 154.099 with the exception that development signs shall not be illuminated. Such signs must be of a rectangular shape. No more than 1 such sign shall be permitted per street frontage and such signs shall be installed on the property to which they refer. For sites having at least 100 feet of frontage on each of 2 public rights-of-way, a second sign may be permitted facing the second right-of-way if both signs comply with code requirements. Such signs shall be limited to 32

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square feet in area and 8 feet in height. They shall be placed at least 8 feet from any public right-of-way. If the site is entitled to 2 temporary development signs, the distance between the signs shall be not less than  $\frac{2}{3}$  the length of the longest right-of-way frontage. The distance shall be measured by drawing 2 straight lines, from the edge of each sign, forming a 90-degree angle.

(H) *Review.* Application shall be made to the Zoning Administrator or designee for review. Approval shall be for a period not to exceed 1 year. In residential subdivisions, development signs must be removed when 75% of the lots in such subdivision have received any certificate of occupancy.

(Ord. 42-03, passed 12-15-2003)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.100 PERMANENT SIGNS.**

#### **§ 154.100 PERMANENT SIGNS.**

All permanent signs shall also comply with the following requirements and with the height, area and setback requirements of Appendix F.

(A) *Wall Signs.* Wall signs are permitted for any business or use.

(1) *Placement.*

(a) Wall signs shall not protrude more than 14 inches from the wall or face of the building to which it is attached, whether or not a raceway is used.

(b) Signs may be attached to a building wall or architecturally integrated extension which faces a street, parking lot or service drive, or may be attached to a canopy which projects beyond the building, provided that no part of the sign may extend above the roof or canopy.

(2) *Height.* Refer to Appendix F following this chapter for height limitations according to use. The height of a wall sign is measured from the established grade line to the top of the sign.

(a) Signs may be attached to a building facade which faces a street, parking lot or service drive. It may be attached to a canopy which projects beyond the building, provided that no part of the sign extends above the roof or canopy.

(3) *Size.* The maximum allowable size for any wall sign shall be 1 square foot for every lineal foot of width of the building face to which the sign is attached, but shall not exceed the maximum size allowed for the use by Appendix F unless located along the interstate

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in a Business/Commercial or Industrial District.

(4) *Number.* Wall signs shall be limited in number to 1 per building or use. For buildings or uses on corner lots or double frontage lots having at least 100 feet of lot frontage on each of 2 public rights-of-way, a second wall sign is permitted facing the second right-of-way. Each sign is limited to 1 square foot in area for every lineal foot of width of the building face to which the sign is attached, not exceeding the installed maximum size allowed for the use by Appendix F. The distance between the signs shall not be less than  $\frac{2}{3}$  the length of the longest elevation to which the sign is attached. The distance will be measured by 2 straight lines along the elevations of the building, from edge of sign to edge of sign. In no case shall 2 wall signs be closer than 10 feet apart. The provision for a second sign does not apply to individual tenants in a multitenant building.

(B) *Ground Signs.* Ground signs shall include free-standing, pole, pylon monument, and planter signs. A ground sign is permitted only when all of the following conditions are fulfilled:

(1) *Placement.*

- (a) The sign is located on the property to which it refers;
- (b) The use is free-standing on its individual lot, or in a shopping center, that is accessible by automobile and has off-street parking; and
- (c) Such signs shall not be located in such a way that they interfere with the safe movement of vehicular and pedestrian traffic.

(2) *Size.* The maximum allowable size for any ground sign shall be in accordance with Appendix F.

(3) *Height.* Refer to Appendix F for height limitation according to use. The height shall be measured from the street or established grade line (whichever is higher) to the highest point of the sign or its frame/support. The height may not be artificially increased by the use of mounding. One ground sign not to exceed 6 feet in height at the minimum 10 foot setback line, with an additional 1 foot of height for every additional 1 foot of setback, up to a maximum of 10 feet in height is permitted in all business, commercial, and industrial districts. An additional ground sign (up to 120 sq. ft. per sign face, 40 feet in height at the minimum 10 foot setback line) shall be permitted for properties with frontage abutting Interstate 75 right-of-way, including the exit/entrance ramp right-of-ways. No more than 2 ground signs are permitted for any property.

(4) *Setback.* All ground signs must be set back a minimum of 10 feet from any public right-of-way or property boundary line unless such signs are specifically exempted of this requirement; refer to Appendix F, or said sign abuts a residentially zoned property, in which case

the sign must be setback a minimum of the height of the sign.

(5) *Number.* Ground signs shall be limited in number to 1 per lot or multiple lots if devoted to 1 specific use or user. Buildings on corner lots having at least 100 feet of frontage on 2 public rights-of-way may be entitled to 2 ground signs, 1 facing each public right-of-way, if they meet the following criteria:

(a) The total combined area of both signs shall not exceed 1½ times the maximum permitted area of a single ground sign for that use.

(b) The 2 signs shall be no closer than 2/3 the length of the longest public right-of-way frontage. The distance shall be measured by drawing two straight lines, measured from the edge of each sign, forming a 90 degree angle.

(C) *Window Signs.* Window signs shall be permitted for the use specified in Appendix F in addition to any permitted wall sign or ground sign. The sum of the area of the window signs and the area of the wall and/or ground sign may not exceed the maximum allowable area for the wall and/or ground sign.

(1) *Placement.* Window signs shall be limited to the ground floor or first floor windows only, unless a use is located in the second or higher stories of a building and has no first floor occupancy.

(2) *Number.* Window signs shall be limited to 1 sign per window.

(3) *Size.* The total area of all such window signs is not to exceed 25% of the total window area of the establishment or 6 square feet, whichever is less. The maximum allowable area on the second floor may not exceed that of the first floor.

(D) *Projecting Signs.* Permitted only in the Old Tippecanoe City Restoration and Architectural District. (See § 154.052.)

(Ord. 42-03, passed 12-15-2003)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.101 SIGNS WITH SPECIAL CONDITIONS.**

### **§ 154.101 SIGNS WITH SPECIAL CONDITIONS.**

For all permanent and temporary sign types listed below, permits must be obtained in accordance with § 154.093. In addition to the requirements and regulations previously listed, the following special conditions shall apply:

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(A) *Corporate Office Signs along I-75 in Business/Commercial or Industrial Districts.*

(1) For the purposes of this chapter, business/commercial or industrially zoned districts are hereby defined to include property with frontage along Interstate 75 that has been improved with corporate office building(s) constructed with 2 or more stories above the natural grade. Such building is entitled to a wall sign facing the interstate in addition to other permitted signage. See § 154.100 (B)(3) for ground signs and maximum height permitted. In all cases, a maximum of 2 ground signs shall be permitted. For wall signs, the permitted sign area is based upon the number of building stories above natural grade and the building setback from the interstate right-of-way line. Buildings that are set back at least 50 feet from the interstate shall be entitled to 100 square feet of signage per story, up to a maximum of 300 square feet. Multi-story buildings set back less than 50 feet from the interstate shall be entitled to a maximum 100 square feet of wall signage regardless of number of stories. Any such wall sign shall be individual channel letters and shall be limited to 1 color. Wall signs may not extend above the roof-line of the building. They may not be attached to a penthouse or roof structure including but not limited to mechanical equipment or roof screening.

(2) Buildings setback less than 100 feet from the interstate shall be entitled to a wall sign no greater than 50 feet in area. All Business/Commercial or Industrial District signs shall conform to all setback, design, location, and other requirements not specifically addressed in this section.

(B) *Banners.* Banners are permitted only for the promotion of special events or for grand openings of businesses. A grand opening occurs only when there is a change of tenant or owner that brings a new business to a site. All banners are subject to the following regulations:

(1) All banners shall be located only on the site where the community event or grand opening occurs. They shall not be located in any public right-of-way or in such a way that they would interfere with the safe movement of vehicular and pedestrian traffic.

(2) Only 5 colors shall be used on any banner, including black and white.

(3) All banners shall be safely secured to a building, structure, or stake. Banners shall have ventilated faces to reduce wind load.

(4) Banners shall not be illuminated.

(5) A temporary sign permit is required for all banners. A scaled diagram of the banner(s), a site plan showing the location of the banner(s) and a description of how the banner(s) is to be ventilated and secured shall be submitted to the Zoning Administrator or designee.

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(6) Banners may be erected for a maximum of 30 days.

(D) *Joint Identification Signs/Shopping Center Signs.* One ground sign identifying only the name of a shopping center, industrial/commercial park, or other building complex shall be permitted, if there is a minimum of 3 uses sharing the same site. Such signs shall be permitted in addition to the permitted signs of individual occupants. A joint identification sign shall not exceed 6 feet in height and the area of a joint identification sign shall not exceed 80 square feet. A second joint identification sign of the same size is permitted if the site has frontage on 2 streets, provided that the total lot frontage (on 2 streets) is 1500 feet or greater. The 2 signs shall be no closer than 75 feet. For all buildings or complexes designed and/or intended for multi-tenant usage, a total sign plan conforming to all the requirements of this code must be submitted to the Zoning Administrator or designee before any sign permit for the complex or an individual tenant will be issued.

(E) *Entry Feature Signs for Residential, Commercial and/or Industrial.* These shall include signs graphically identifying a development. Such signs shall be limited to monument signs only. Pole and pylon signs are prohibited. Such signs must consist entirely of natural materials, such as wood, brick and stone. The reverse sides of such signs shall be finished to match the fronts. The graphic area of such signs shall not exceed 20 square feet and the height of the monument shall be limited to 6 feet. A maximum of 1, single-face sign shall be permitted at each development entrance and may only be placed fronting on a thoroughfare street as defined on the official Thoroughfare Plan and must be located out of the public right-of-way and corner/intersection triangle (see § 154.080(B)(1)-(3)). Such signs may not interfere with the safe movement of vehicular and pedestrian traffic. Such signage must meet Tipp City's lighting and landscaping requirements.

(F) *Signs for Model Homes.* Such signs shall be permitted in lieu of an exempt residential for sale/for lease sign as described in § 154.098(I). Such signs must not exceed 8 square feet in area and may not be internally illuminated.

(G) *ATMs.* Signage for all ATM's (Automated Teller Machines) shall be limited to 2 square feet of sign area per side of structure and utilize no more than 3 colors. ATM signage must have an opaque background. If the ATM contains a logo, it may be internally illuminated. (All external illumination shall comply with the Tipp City Lighting Guidelines.) In addition, monochromatic, non-illuminated logos of accepted credit systems, (Visa, Mastercard, American Express, etc.), are limited to less than 1 square foot in area and must be oriented to the user of the device only.

(H) *Nonconforming Signs.* All pre-existing legal nonconforming signs must be brought into conformity under any of the following conditions:

(1) Upon any change in the use of the property for which such property was

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intended at the effective date of this amendment, \_\_\_\_\_, 2004.

(2) Upon the discontinuance of the present use of property for a period of more than 6 months.

(3) Upon alterations to the existing sign, the following regulations shall apply:

(a) *Structural*. No display sign shall hereafter be altered, rebuilt, enlarged, extended, or relocated except in conformity with the provisions of this subchapter.

(b) *Repainting or Refacing*. The repainting or refacing of existing nonconforming signs shall not be considered an alteration within the meaning of this section.

(c) *Existing Signs; continuance*. Except as otherwise specifically provided, nothing in this section shall require the removal or discontinuance of a legally existing nonconforming permanent display sign, which is attached to the property, as distinguished from a temporary or portable sign, that is not altered, rebuilt, enlarged, extended or relocated.

(4) All existing non-conforming signs must be kept in a state of good repair, good working order, and in a safe condition, free from fading, peeling paint, broken, cracked or missing faces, rotting/decaying supporting structures or frames, improperly or partially functioning lighting fixtures, or other aesthetically displeasing characteristics.

(I) *Seasonal Business*. One sign per street frontage is allowed for a seasonal business. Such signs are limited to 32 square feet in area and 6 feet in height. They must be setback at least 10 feet from any

public right-of-way. Such signs are limited to 4 colors, including black and white. Seasonal businesses/temporary uses must obtain Planning Board approval for the use prior to commencing as per § 154.060.

(J) *Gasoline Stations*. Gasoline stations, whose principal business is the sale of motor fuel, may display signs in addition to those hereinabove authorized. Such signs shall be limited to the following:

(1) One non-illuminated, double-faced sign not exceeding 5 square feet on a side is permitted for each set of motor fuel pumps identifying "self service" or "full service."

(2) Price and grade information can be displayed only on the permitted sign, in computer or manually (black and white only) changeable copy. Changeable copy for these purposes shall not include liquid crystal display (LCD), light emitting diodes (LED), or other similar electro/mechanical displays. This is the only circumstance in which changeable copy may be used.

(3) Signs limited to the identification of the brand name, logo or type of fuel

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sold and other signs as may be required by law shall be permitted on the motor fuel pumps. Fuel pumps shall not be illuminated. No signs projecting above, from, hanging on, etc. the pumps may be permitted, except as required by law.

(4) Any other such signs as may be required by law.

(K) *Restoration and Architectural District.* Signs within the R/A District shall require prior review and approval by the Restoration and Architectural Review Board. Signs within the R/A District shall be in conformance with the Old Tippecanoe Restoration and Architectural Review Guidelines, or any properly adopted successor guidelines or regulations. In no case shall such guidelines permit signage which exceed the size, height, color, opacity, and design requirements within this subchapter.

(L) *Drive-thru menu board signs.* This shall include free-standing, pole, pylon and monument signs. A drive-thru menu board sign is permitted only when all of the following conditions are fulfilled:

- (1) The sign is located on the property to which it refers;
- (2) The sign is not visible from the public right-of-way; and
- (3) The sign does not exceed 32 square feet in size.

(Ord. 42-03, passed 12-15-2003)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.102 FEES AND MAINTENANCE.**

### **§ 154.102 FEES AND MAINTENANCE.**

(A) *Fees.* Permit and any other fees as determined by Council are posted in a fee schedule available through the Community and Economic Development Department. The permit fee is payable upon receipt of the sign permit.

(B) *Re-inspection, Maintenance and Repair.* Every sign, including but not limited to those signs for which permits or for which no permits or permit fees are required, shall be repaired within 10 days of receiving a written notice from the city to repair so that said sign is maintained in a safe, presentable and good structural material condition at all times, including the replacement of defective parts, face wash, painting, repainting, cleaning, and other acts required for the maintenance of said sign. The Administrator shall require compliance with all standards of this chapter. If the sign is not made to comply with the provisions of this section, the Administrator shall require its removal.



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(1) The Zoning Administrator or designee shall re-inspect each sign at least once every 24 months following erection of such sign to determine its continued compliance with the approved permit and plans as they were issued and to ensure proper operating conditions and maintenance in accordance with this subchapter. The sign owner shall be solely responsible for maintaining the appearance, safety and structural integrity of the sign at all times.

(2) Whenever the inspecting official finds a sign in need of repair, support, replacement, cleaning, repainting, or any maintenance service necessary to maintain reasonable and proper appearance and public safety, he or she shall issue an order to the owner allowing 30 days to correct needed repairs or maintenance. If the inspecting official determines that the existing condition of the sign creates an immediate hazard to the health or safety of the general public, he or she shall issue an order to the owner requiring the sign to be removed immediately.

(3) Failure of an owner to comply with the provisions listed above shall be cause for the inspecting official to order the permit issued for the sign void and issue an order for the sign to be removed. The cost of removal will be assessed to the property owner. If the property owner refuses to pay for removal of the sign, the cost of such removal shall be assessed to the property owner's tax records.

(Ord. 42-03, passed 12-15-2003)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.103 REMOVAL AND DISPOSITION OF SIGNS.**

#### **§ 154.103 REMOVAL AND DISPOSITION OF SIGNS.**

(A) *Abandoned signs.* Except as otherwise provided in this chapter, any on-premise sign which is located on property which becomes vacant and unoccupied for a period of 6 months or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to be abandoned. Permanent signs applicable to a business temporarily vacant because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of 3 months. An abandoned sign is prohibited and shall be removed by the owner of the sign or owner of the premises.

(B) *Dangerous or defective signs.* No persons shall maintain or permit to be maintained on any premises owned or controlled by them any sign which is in dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises.

(C) *Removal of signs by the Administrator.*

(1) The Administrator shall cause to be removed any sign in violation of this

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chapter or a sign for which no permit has been issued. The Administrator shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within 30 days, the sign shall be removed in accordance with the provisions of this section.

(2) All notices mailed by the Administrator shall be sent by certified mail. Any conformance time periods provided in this section shall be deemed to commence on the date of mailing of the certified mail.

(3) For all other signs, the notice shall be mailed to the owner of the property on which the sign is located as shown on the last equalized assessment roll. If known, or with reasonable care should be known, the notice shall be mailed to or delivered to the owner of the sign and the occupant of the property.

(4) Any person having an interest in the sign or the property may appeal the determination of the Administrator ordering compliance, removal, or compliance by filing a written notice of appeal with the Board of Appeals, within 10 days after the date of mailing the notice, or 10 days after receipt of the notice if the notice was mailed.

(5) Any signs found to be placed in the public right-of-way, on public property, or elsewhere where placement is prohibited under § 154.096, may be confiscated by the city and are subject to immediate removal without notification by the Administrator or any other city personnel.

(6) Notwithstanding the above, in cases of emergency, the Administrator may cause the immediate removal of a dangerous or defective sign without notice.

### (D) *Disposal of signs: fees.*

(1) Any sign removed by the Administrator pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The cost of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city or by assessment against the property as hereinafter provided. The cost of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal. Signs may be retrieved for a fine of \$10 per sign at the Tipp City Government Center, for a period not to exceed 48 hours after removal by the Zoning Administrator or any other city personnel. After the 48 hours, the signs shall be disposed or destroyed.

(2) When it is determined by the Administrator that said sign would be an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the Administrator may correct the danger, all costs being assessed as contained in the following subdivisions (a)

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through (h):

(a) The notice given by the Administrator shall state not only the remedial action required to be taken, but shall also state that if such action is not taken within the time limits set forth in this chapter, the estimated cost of correcting the unlawful feature of the sign may be assessed against the property on which the sign is located, together with the additional 5% for inspection and incidental costs and an additional 10% penalty for the cost of collection, and collected in the same manner as real estate taxes against the property.

(b) In the event that the owner of the premises, or person entitled to the possession, or the owner of the sign shall fail, neglect or refuse to comply with the notice to repair, rehabilitate or demolish the sign to be declared unlawful within 30 days the owner of the premises upon which the sign is located, and the person entitled to possession thereof (if other than the owner of the premises), or all or any of them may be prosecuted for violation of this chapter. The Administrator may remove the sign declared to be unlawful.

(c) If it shall be necessary for the Administrator to remove a sign pursuant to the provisions hereof, sealed quotes shall be taken when the estimated costs of demolition exceed \$500. When completed, the Administrator shall certify to the Clerk of Council the legal description of the property upon which the work was done, together with the name of the owner thereof, as shown on the tax rolls of the related municipal area, together with a statement of work performed, the date of performance and the cost thereof.

(d) Upon receipt of such statement, the Clerk of Council shall mail a notice to the owner of said premises as shown on the tax rolls, at the address shown upon the tax rolls, by certified mail; postage prepaid, notifying such owner that the work has been performed pursuant to this chapter, stating the date of performance of the work, the nature of the work, and demanding payments of the costs thereof (as certified by the Administrator), together with the 5% for inspection and other incidental costs in connection therewith. Such notice shall state that if said amount is not paid within 30 days of mailing the notice, it shall become an assessment upon and a lien against the property of said owner, describing the same, and will be certified as an assessment against the property together with a 10% penalty, for collection in the same manner as real estate taxes upon the property.

(e) If the Clerk of Council shall not receive payment within a period of 30 days following the mailing of each notice, the Clerk shall inform the Council of such fact, and the Council shall thereupon enact an ordinance assessing the whole cost of such work, including the 5% for inspection and other incidental costs in connection therewith upon the lots and tracts of land from which the sign has been removed, together with a 10% penalty for the cost of collection.

(f) Following adoption of such ordinance, the Clerk of Council shall certify the same to the Finance Director, who shall collect the assessment, including the 10%

penalty for the cost of collection, in the same manner as other taxes are collected.

(g) Each such assessment shall be a lien against each lot or tract of land assessed, until paid, and shall have priority over all other liens except general taxes and prior special assessments.

(h) For all purposes hereinafter the owner of the premises shall be presumed to be the owner of all signs thereon, unless the contrary shall appear from facts brought to the attention of the Administrator.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.104 ENFORCEMENT RESPONSIBILITY.**

**§ 154.104 ENFORCEMENT RESPONSIBILITY.**

Enforcement of this subchapter shall be the responsibility of the Zoning Administrator. The Zoning Administrator may be provided with assistance of such enforcement personnel as may be designated by the City Manager.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.105 INTERPRETATION.**

**§ 154.105 INTERPRETATION.**

When the meaning or applicability of any of this subchapter is unclear, the Board of Zoning Appeals shall hear all arguments on the question, and shall render a decision consistent with the other established provisions of the subchapter and with their implied intent. In the event of a conflict between provisions of the subchapter the specific shall control the general, and the more restrictive shall prevail over the less restrictive.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / SIGN REGULATIONS / § 154.106 APPEALS AND VARIANCES.**

**§ 154.106 APPEALS AND VARIANCES.**

(A) *Notice of violation.* If any sign is erected or maintained in violation of any of the provisions of this subchapter, the Zoning Administrator shall provide the owner with written notice of such violation, said notice to include a brief statement of the particulars in which this subchapter is violated and the manner in which such violation is to be remedied. If a sign has been registered with the Zoning Administrator, notice to the registered owner or to the person or firm receiving the permit shall be sufficient. If a sign has not been registered and the owner of the property is not known, affixing of a copy of the notice to the sign, sign structure, or building for a period of 10 days shall constitute official notification of the violation.

(B) *Appeals.* Any adverse decision by the Zoning Administrator or other authorized officer relative to this subchapter may be appealed to the Board of Zoning Appeals by the person directly and adversely affected, if the appeal is filed within 10 days after notice of the violation(s).

(C) *Variances.*

(1) A variance from any provision of this subchapter may be granted by the Board of Zoning Appeals (subject to § 154.175(E)(7) if applicable) except for sign height variances for ground signs, where the strict interpretation of this subchapter would create an unusual and unnecessary hardship on the property owner due to the unique location or physical characteristics of the property, if the variance would not adversely affect the public interest in any manner.

(2) An affirmative vote of a majority of the members of the Board of Zoning Appeals is required for a variance or for reversal of the decision of the Zoning Administrator or other authorized enforcement officer.

(3) In the event that a sign is established in violation of any provision of this subchapter, no application for a variance allowing the sign may be accepted, processed, or reviewed by the Board while the illegal sign remains. Application appealing the decision of the Zoning Administrator relative to the legality of a sign under this chapter shall, however, stay all further action until a decision on that appeal is made by the Board, except removal of the sign by the city under the public safety provisions of this chapter.

(Ord. 42-03, passed 12-15-2003)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR ADMINISTRATION OF SPECIAL USES**

**PROCEDURE AND REQUIREMENTS FOR  
ADMINISTRATION OF SPECIAL USES**

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND  
REQUIREMENTS FOR ADMINISTRATION OF SPECIAL USES / § 154.120  
GENERAL.**

**§ 154.120 GENERAL.**

It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses pose characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually. These specific uses as they are specially permitted under the provisions of §§ 154.040 through 154.061, shall follow the procedures and requirements set forth in §§ 154.121 and 154.122, inclusive, except wireless telecommunications facilities noted in § 154.122(B)(32) shall follow the procedures and requirements set forth in Chapter 156.

(1974 Code, § 154.110) (Ord. 26-93, passed 8-16-1993; Am. Ord. 06-05, passed 2-22-2005)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND  
REQUIREMENTS FOR ADMINISTRATION OF SPECIAL USES / § 154.121  
PROCEDURES FOR MAKING APPLICATION.**

**§ 154.121 PROCEDURES FOR MAKING APPLICATION.**

(A) *Contents of application for special use permit.* An application shall be submitted to the Planning Board and it shall contain the following data:

- (1) Name, address, and phone number of applicant.
- (2) Legal description of property.
- (3) Description of existing use.
- (4) Zoning district.

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(5) Description of proposed special use.

(6) The location and dimensions of all proposed drives, service and access roads, sidewalks, curb openings, signs, exterior lighting, parking lot areas (show dimensions of a typical parking space), unloading areas, walls, fences and landscaping.

(7) Proposed land uses and proposed height, bulk and location of principal structures sufficient to permit an understanding of the style of the development. In this regard, typical elevation views of the front and side of each type of building should be provided. Proposals containing residential units shall specify the number of housing units by size, type and respective location upon the site.

(8) A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; and discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Zoning District Map.

(9) The fee payment for special zoning permits.

(10) The Zoning Administrator may waive certain required submission items identified in subdivisions (6) and (7) above if he or she determines that their inclusion in any individual application is unnecessary.

(B) *Review by Planning Board.* The City Planning Board shall review the proposed development as presented on the submitted plans and specification in terms of the standards established in this chapter. Such review shall be completed and a public hearing may be held according to the procedures specified in §§ 154.156 through 154.160 within a 60-day period following the submission of such application.

(C) *Action by the City Planning Board.* Within 30 days after the review described in division (B), the Board shall either approve, approve with supplementary conditions as specified in § 154.122, or disapprove the application as presented. If the application is approved or approved with modifications, the Board shall direct the Zoning Administrator to issue a special use permit listing the specific conditions specified by the Board for approval.

(D) *Issuance and revocation of special use permit.* Only upon conclusion of review procedures relative to a particular application may the Planning Board issue a special use permit. The breach of any condition, safeguard, or requirement shall automatically invalidate the permit granted, and shall constitute a violation of this Zoning Code. Such violation shall be punishable as specified in § 154.999.

(E) *Expiration of special use permit.* A special use permit shall be deemed to authorize only one particular special use and said permit shall automatically expire if, for any

reason, the special use shall cease for more than 2 years.

(F) *Reapplication.* No application for a special use permit which has been denied wholly or in part by the Planning Board shall be resubmitted until the expiration of 1 year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Planning Board.

(1974 Code, § 154.111) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR ADMINISTRATION OF SPECIAL USES / § 154.122 STANDARDS AND REQUIREMENTS FOR SPECIAL USES.**

**§ 154.122 STANDARDS AND REQUIREMENTS FOR SPECIAL USES.**

The Planning Board shall establish that both the general standards and the specific requirements pertinent to each special use indicated herein shall be satisfied by the establishment and operation of the proposed special use. Wherever no specific areas, frontage and setback requirements are specified in provision for specific special uses, then the area, frontage and setback requirements in the applicable zone shall apply; provided, that the Planning Board shall be authorized to waive or modify certain requirements as necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general. The Planning Board may also impose such additional conditions, guarantees, and safeguards as it deems necessary for the general welfare, for the protection of individual property rights, and for insuring that the intent and objectives of this chapter will be observed.

(A) *General requirements.* The Planning Board shall review the particular facts and circumstance of each proposed use in terms of the following standards and shall find adequate evidence that such use on the proposed location:

(1) Is in fact a special use as established under the provision of §§ 154.040 through 154.061 for the zoning district involved.

(2) Will be harmonious with and in accordance with the general objectives, or with any specific objectives of the Zoning Code.

(3) (a) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity that such use will not change the essential character of the same area.

(b) Structures to be constructed, reconstructed or altered pursuant to special uses in residential districts shall, whenever practicable, have the exterior appearance of



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residential buildings of the type otherwise permitted and shall have suitable landscaping, screen planting and fencing wherever deemed necessary by the Planning Board.

(4) Will not be hazardous or disturbing to existing or future neighboring uses.

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

(6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

(7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of

excessive production of traffic, noise, smoke, fumes, glare, or odors.

(8) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

(9) Will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance.

(B) *Specific guidelines for special uses and selected permitted uses.* Following is a list of standards for special and permitted uses as specified in the respective district regulations contained within §§ 154.040 through 154.061 of this chapter. These standards shall be used in conjunction with other standards as required in the respective zoning district in which the special use is proposed. In the event of conflicting standards, the special use standard shall prevail.

(1) *Agricultural services.*

(a) Agricultural services shall include commercial activity that primarily serves the farming community, such as tractor and farm implement sales, welding shops, grain elevators, doctor and dentist offices, saw sharpening, farming machinery and repair (including automobiles and trucks), and grocery stores, if determined by the Planning Board to be needed or appropriate.

(b) Structures used for agricultural services and/or related storage shall be a minimum distance of:

1. 100 feet from any dwelling.
2. 100 feet from any residential district.

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(c) The site shall have adequate access onto a hard surfaced state highway, or city road, that is regularly maintained and adequate to handle the additional traffic generated by the use.

(d) Adequate parking shall be provided so as not to interfere with vehicular traffic on adjacent thoroughfares.

(e) The applicant shall demonstrate that the proposed operations will not be detrimental to the vicinity or surrounding properties.

(f) No outdoor disassembly or repair of farm machinery shall be permitted.

(g) All equipment used in the operations shall be constructed, maintained, and operated in such a manner as to eliminate so far as practical, noise, vibration, or dust which would injure or annoy persons living in the vicinity.

(h) All exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon any adjoining residence or property in a Residential District.

(2) *Airports and landing strips.*

(a) The applicant shall demonstrate that the proposed operations will not be detrimental to the vicinity or surrounding properties.

(b) The proposed facility shall meet the appropriate standards and requirements of the Federal Aviation Administration.

(c) The airport, in accordance with the standards and requirements of the Federal Aviation Administration, shall not require the heights of structures on adjacent land to be less than the height limit specifically prescribed for the district in which such land is situated.

(d) All runways and service aprons shall have a dustless surface.

(e) No area used by any aircraft under its own power shall be located within a distance of 200 feet from any property line; 1,000 feet from any public or private institution; or 1,000 feet from any Residential or Commercial District on the approach and departure ends of the runway. Buildings, hangars, or other structures shall be at least 200 feet from any property line, and no parking of vehicles shall be allowed within 100 feet from any property line.

(f) Exterior lighting shall be shaded wherever necessary to avoid casting direct light upon any adjacent property or any adjacent public street.

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(3) *Animal hospitals, veterinary clinics, and kennels.*

(a) Principal permitted uses:

1. The care of ill and/or injured household animals.
2. The overnight boarding of ill and/or injured household animals.
3. The sale of goods used in the care of household animals.

(b) Care and boarding shall be limited to small animals and may not include cattle, horses or swine except in the Conservation District.

(c) All activities other than off-street parking and loading/unloading shall be conducted within a fully enclosed structure. Outside runs shall be permitted only in a Commercial District where they shall be at least 200 feet from any lot in a Residential District.

(d) Structures shall be designed and maintained in a manner to prevent the development of unsanitary conditions which could result in unpleasant odor or vermin nuisance.

(e) Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so that animal noises will not be audible at any point on the perimeter of the property.

(f) A solid wood fence or masonry wall 6 feet high shall be constructed where an animal hospital, veterinary clinic, or kennel is located adjacent to a Residential District. The applicant shall also meet the requirements of § 154.061.

(4) *Automobile service stations, repair and body shops.*

(a) Automobile service stations doing no major repair work shall have a minimum lot size of 14,000 square feet. All other uses shall have a minimum lot size of 20,000 square feet.

(b) Minimum front yard:

Buildings	40 feet
Gasoline pumps	20 feet
Canopies	10 feet

(c) All outdoor display areas shall be located a minimum of 25 feet from any adjacent residential property, and any buildings used for service and repair work shall

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be located a minimum of 50 feet from any adjacent residential property.

(d) Outdoor display of merchandise on the site shall be restricted to the following:

1. Small supplies at the pump island of lubricating oils, additives, antifreeze, windshield wiper blades and similar items.

2. Tire displays and vending machines if located within or immediately adjacent to the perimeter of the service station building.

3. All other merchandise shall be located completely within the enclosed service station building.

(e) All hydraulic hoists, oil pits and all lubricants, greasing, automobile washing and repair equipment shall be enclosed entirely within a building.

(f) A solid wood fence or masonry wall at least 6 feet high shall be provided on any side of the site adjacent to a residential property.

(g) Activities at automobile service stations shall be limited to:

1. The sale of petroleum fuel, primarily to passenger vehicles.

2. The servicing of motor vehicles with minor repair work.

3. The following accessory uses:

a. Machine vending of merchandise.

b. Washing automobiles provided that no chain conveyer, steam cleaner or other mechanical device is used.

c. Retail sale of miscellaneous products relating to minor repair work (oil, grease, antifreeze, tires, batteries, windshield wipers and similar items).

d. Rental of trucks and trailers, provided that no more than ten percent of the total site shall be devoted to such activity; no rental units over 30 feet in length shall be permitted to be stored either in required off-street parking spaces or within required front building setback; and a minimum of 160 square feet of lot area shall be provided for every trailer to be stored and 320 square feet for every truck to be stored.

4. Specifically prohibited is major repair work, including automobile body repair and painting, automobile glass work, automobile transmission work, automobile engine overhaul and repair, and radiator repair work. Vehicles being serviced or awaiting same shall be stored for no longer than 7 days on the site if in unenclosed areas.

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(h) For all uses regulated by this subsection, all hydraulic hoists, oil pits and all lubricants, greasing and repair equipment shall be enclosed entirely within a building. No outdoor disassembly or repair of motor vehicles shall be permitted.

(i) All areas not paved or covered by the building shall be landscaped, and all landscaped areas shall be separated from all paved areas by a six inch high curb.

(j) Ingress and egress drives shall not be more than 30 feet as measured at the property line.

(k) No more than 1 curb opening shall be permitted for every 50 feet of frontage along any street, with a maximum of 2 per frontage.

(l) Driveways opening on traffic lanes leading to the intersection at which the business is situated shall be located as to provide not less than 75 feet spacing between the intersection formed by the adjacent street right-of-way lines and the nearest side of such driveway. Driveways opening on traffic lanes leading away from the intersection shall be located so as to provide not less than 50 feet spacing between the intersection formed by the adjacent street right-of-way lines and the nearest side of such driveways, measured along the right-of-way line.

(m) Exterior lighting shall be directed inward and away from abutting properties.

(n) External areas for storage of rubbish and other discarded materials shall be completely screened by the use of a properly maintained solid wood or masonry fence.

(5) *Automobile wrecking and metal salvaging, sales and storage.*

(a) Automobile wrecking and metal salvaging, sales and storage shall be effectively screened on all sides by means of a masonry wall or opaque fence not less than 6 feet high.

(b) Immediate access to a major thoroughfare shall be required.

(c) The site shall be a minimum distance of 600 feet from any property zoned for residential purposes.

(6) *Banks, with drive-thru facilities.*

(a) A minimum lot area of 20,000 square feet is required.

(b) Drive-in windows and lanes shall be located at least 50 feet from any residential property, and a solid wood fence, hedge or masonry wall at least 6 feet in height shall be provided where a drive-in window is located adjacent to a residential property.

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(c) In addition to the off-street parking spaces required within §§ 154.070 through 154.081 of this chapter, eight off-street waiting spaces for a single drive-in window or drive-through teller machine are required. This number shall be reduced to 5 spaces per window or machine if 2 or more such windows or facilities are utilized.

(d) Customer and employee parking shall be separated from drive-in activities, and customer parking shall be located in the area with highest accessibility to the principal building.

(e) The circulation system shall provide smooth, continuous traffic flow with efficient, nonconflicting movement throughout the site. Major pedestrian movements shall not conflict with major vehicular circulation movements.

(7) *Bars and taverns.*

(a) Minimum lot area shall be 10,000 square feet.

(b) The structure shall be setback at least 35 feet from any residential property and a solid fence, wall or hedge 6 feet in height shall be provided on any side of the site adjacent to a residential property.

(c) No bar or tavern shall be located closer than 500 feet to a church, school, or similar institution.

(d) Access shall be from an arterial street or shall be provided in a manner that does not cause heavy traffic on residential streets.

(e) An assessment shall be made of the probable effects of the proposed facility's parking provisions and evening operations on the surrounding area.

(8) *Bowling alley, indoor skating and similar uses.*

(a) The structure shall be setback at least 50 feet from any residential property and a solid fence, wall or hedge 6 feet in height shall be provided on any side of the site adjacent to a residential property.

(b) Access shall be from an arterial street or should be provided in a manner that does not cause heavy traffic on residential streets.

(c) An assessment shall be made of the probable effects of the proposed facility's parking provisions and evening operations on the surrounding area.

(9) *Building materials sales yards.*

(a) Immediate access to a major thoroughfare shall be required.

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(b) All storage that is not totally enclosed within a building shall be enclosed by a 6 foot fence and gate that provides both security and a visual barrier. Where this outdoor storage is located adjacent to a Residential District, there shall be planted along the outside face of the required fencing, mature evergreens at 30 foot intervals.

(10) *Car washes.*

(a) Minimum lot area shall be 20,000 square feet.

(b) All structures shall be located at least 50 feet from any adjacent residential property.

(c) All washing facilities shall be included entirely within an enclosed building except that entrance and exit doors may be left open during the hours of operation.

(d) Vacuuming and/or steam cleaning equipment may be located outside, but shall not be placed in the yard adjoining a Residential District.

Mechanical drying equipment and/or hand drying of motor vehicles must be performed on the premises.

(e) A hard-surfaced exit drive not less than 40 feet in length shall be provided between the exit doors and the street.

(f) A solid fence, wall, or hedge 6 feet high shall be required when a car wash is adjacent to a Residential District.

(g) The following hard-surfaced, dust- free, off-street parking spaces shall be provided:

1. a. *Full service attended facilities.* 6 waiting spaces and 2 storage spaces for each car washing device or stall; or 10 off-street waiting spaces for an assembly line type washing establishment where vehicles await entrance to the washing process.

b. *Self-service facilities.* 5 waiting spaces for each car washing device or stall.

2. 1 employee parking space for each employee on duty.

3. 2 parking spaces at the exit end of each washing bay for drying and hand finishing of vehicles.

(h) Access shall be from an arterial street or major collector street.

(11) *Cemeteries.*

(a) For purposes of this section, an office, crematorium, mausoleum,  
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and other buildings or structures necessary to the operation of a cemetery shall be permitted as accessory uses thereto.

(b) Minimum site area shall be 20 acres.

(c) Location. The site shall be located with at least 300 feet of frontage on a street designated as a secondary arterial or higher.

(d) Minimum setback lines of at least 50 feet shall be provided along all street right-of-way lines and adjoining property lines, provided, however, internments, markers, and gatehouses may be located not closer than 30 feet to any adjoining property line when not in excess of 15 feet in height.

(e) Mausoleums or crematoriums shall be a distance of at least 200 feet from adjacent property lines and street right-of-way lines.

(f) Maximum height shall be 50 feet.

(g) Fencing. The entire property shall be enclosed with an ornamental fence, wall or compact planting barrier. Such fence, wall, or planting barrier shall be at least 4 feet in height and provided with landscaping.

(12) *Churches, libraries, community and recreation centers.*

(a) Minimum lot area shall be 1 acre.

(b) All sites shall have access only from an arterial or collector street or shall provide access in a manner that does not cause heavy traffic on residential streets.

(c) All structures and active outdoor recreation uses shall be setback a minimum of 50 feet from any residential property, however, any outdoor recreation area with night lighting shall be setback 100 feet from any residential property.

(d) Parking spaces for church buses shall be located as far distance from any adjacent residential property line as possible. A minimum of 50 feet shall be required in any case.

(13) *Clinics.*

(a) A medical or dental clinic may be allowed, upon a finding by the Board that such use will not constitute a nuisance because of the traffic, noise or physical activity and that such use will not affect adversely the present character or future

development of the surrounding residential community, subject to the following specific conditions:



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1. Minimum area, 40,000 square feet.
2. Minimum frontage 200 feet.
3. Minimum setback, 40 feet from all property lines.
4. Maximum building height, as specified in zone.
5. Maximum building coverage, 15%.
6. Location of access, on business district street, arterial or

major highways.

(b) Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, may be permitted as part of the clinic facility, subject to the following specific conditions:

1. All entrances to parts of the building in which these accessory services are provided shall be from within the building and any direct access from the street is prohibited.
2. The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

(14) *Clubs, private and public, golf and country clubs, and lodges operated by educational, social or fraternal organizations.*

(a) Accessory uses necessary to the operation of such use, such as clubhouses, restaurants, bars, swimming pools and similar activities, shall be permitted, provided however, such uses where the conduct of business is the principal activity, shall not be permitted.

(b) The lot shall be located so as to abut a collector street, secondary thoroughfare, or major thoroughfare with at least 1 property line.

(c) Adequate lot areas shall be provided for the use contemplated.

(d) Minimum setback lines shall be 100 feet from an adjoining property line, provided, however, the distance from the center and center line of all greens and fairways shall be at least 150 feet from an adjoining property line.

(e) When any softball, baseball, soccer or football field, tennis court, structured play area or parking area is located less than 150 feet from any residential property, a continuous planting screen not less than 6 feet in height shall be provided.

(15) *Community based residential social service facilities.*

- (a) *Submission requirements.* The operator or agency applying for
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special use permit to operate a community based residential social service facility shall submit the following information to aid the Planning Board in their review of the requested facility:

1. A site plan showing the location of all structures and the floor plan of the principal structure. This plan shall indicate any proposed exterior and/or interior alterations and/or additions. In the event any exterior alterations and/or additions are proposed, elevations of the structure shall be submitted.

2. Information sufficient to establish the need for the facility in the proposed location, in relationship to the specific clientele served.

3. Identification of similar facilities presently existing within the city and its environs.

4. A license or evidence of ability to obtain a license, if such is required, from the pertinent governmental unit prior to operation. Prior to the issuance of a final certificate of occupancy, the operator or agency shall provide evidence that a valid license has been issued or is obtainable for this proposed special use on the subject property. If licensing is not available, a verified affidavit so stating shall be presented.

5. The occupancy and staffing standards that will be utilized in operating the home.

6. The external services, programs and support systems offered by the appropriate social service, agencies and/or community facilities, along with the specific assistance/services provided for the clientele of the home.

7. The care, services and programs provided for the clientele by the facility.

### (b) *Facility requirements.*

1. Every room occupied for sleeping purposes within the home shall contain a minimum of 80 square feet of habitable room area for 1 occupant, and when occupied by more than 1 shall contain at least 60 square feet of habitable room area for each occupant. Living rooms, dining rooms, kitchens, corridors, closets, basements or porches shall not be used as sleeping rooms.

2. Suitable space shall be provided for indoor and/or outdoor recreational activities for the clientele served, based upon generally accepted recreational standards or those specified by the licensing authority.

3. No exterior alteration of the structure shall be made which departs from the residential character of the building. All new structures prepared shall be of

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compatible residential design with the surrounding neighborhood, to the degree possible.

4. Off-street parking requirements: 1 space per every 3 persons residing in a family or community based residential social service facility except for facilities prohibiting ownership or operation of automobiles by occupants of such facilities. In any case, suitably screened off-street parking shall be provided on a 1-to-1 ratio to the number of autos operated out of the facility. Within neighborhoods in which on-street space directly abutting the subject lot may substitute for a proportion of the required off-street spaces if approved by the Planning Board.

5. The facility shall not be located within a 1/4 of a mile radius of another facility.

6. Resident density shall not exceed that density permitted within the respective zoning district in which the facility is proposed.

7. The facility shall have 24-hours supervision consistent with pertinent supporting agency standards subject to review and final approval by the Planning Board.

(c) *Findings by the Planning Board.* In its review of each proposed facility, the Planning Board shall make specific findings of fact relative to the following criteria. The proposed facility:

1. Is in fact a community based residential social service facility licensed by the appropriate authority to provide such service within the state (and the city). If such licensing is not available, a certified affidavit so stating has been presented to document this statement.

2. Is in fact a needed facility in the location proposed, based upon evidence acceptable to the Planning Board.

3. Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing officially planned uses in the general vicinity and that such use will not change the essential character of the same area. In this regard, it does not contribute to a concentration of such facilities in the respective area.

4. Will not be hazardous or disturbing to existing or officially planned future neighboring uses from the standpoint of noise, lights, congestion or traffic generation which would be incompatible with the neighborhood environment.

5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide

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adequately any such services.

6. Will not involve uses, activities and conditions of operation that will be detrimental to any persons, property, or the general welfare.

7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

(16) *Congregate housing.*

(a) Licensing or approval of facility by the central licensing body.

(b) The facility shall not be used to house more residents than can be housed therein consistent with the health, safety and welfare of residents as determined by the central licensing body.

(c) Every room occupied for sleeping purposes with the house shall contain a minimum of 80 square feet of habitable floor area for 1 occupant, and when occupied by more than 1 individual, shall contain at least 60 square feet of habitable floor area for each occupant.

(d) No exterior alterations of the shall be made which depart from the residential character of the building. All new structures shall be compatible in residential design with the surrounding neighborhood.

(e) Projected traffic volume shall not be significantly greater in volume than would otherwise normally occur in the neighborhood in which it is located.

(17) *Day Care centers and nursery schools.*

(a) Day care centers for 7 or more children shall have a minimum lot area of 7,500 square feet, or 500 square feet per child, whichever is greater. Home child care of 6 or fewer children is considered to be a home occupation and is regulated by subdivision (24).

(b) There shall be provided a minimum of 100 square feet of fenced outdoor play area per child.

(c) An on-site drop-off area shall be provided at the main entrance to the facility sufficient to accommodate 4 automobiles for facilities with 20 or fewer children plus 1 additional vehicle for each additional 10 children served.

(d) Access to an arterial or collector street is required or access shall be provided in a manner that does not cause heavy traffic on residential streets.

(e) All outdoor play areas shall be enclosed by a fence or wall a minimum of 5 feet in height, except that a minimum 6 foot high wall, solid wood fence, or chain

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link fence planted with a continuous evergreen screen shall be provided around all outdoor play areas abutting a residential property.

(f) Use of outdoor play areas shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.

(g) The Zoning Administrator has the power to require additional fencing, screening and/or other measures deemed necessary to protect the health, safety and welfare of children using day care centers in commercial, industrial, or other high hazard areas, or to deny a request to locate a facility in such areas based on health and safety considerations.

### (18) *Drive-in, fast-food and carry-out restaurants.*

(a) All points of entrance or exit should be located no closer than 100 feet from the intersection of 2 arterial thoroughfares, or no closer than 50 feet from the intersection of an arterial street and a local or collector street.

(b) No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway, and no lighting shall shine directly on adjacent properties.

(c) There shall be 2 separate driveways located along the frontage(s) providing both ingress and egress to and from the property. These separate driveways shall have a minimum distance of 20 feet between them, and shall not exceed 40 feet in width at the curbline, nor 30 feet in width at the property line. No such driveway shall be located closer than 25 feet to an adjacent property line in a Residential District, nor 10 feet to an adjacent property line in any other Zoning District; and on corner lots shall not be located closer than 40 feet to an adjacent intersection.

(d) Wherever feasible, the applicant is encouraged to design and construct a common service drive to accommodate individual access drives within the development. When located upon an arterial thoroughfare, the Planning Board may require such service drives by construction or performance bonds in lieu of such construction be presented to Tipp City prior to the issuance of a building permit for the proposed structures.

(e) All permitted installations shall be kept in a neat and orderly condition so as to prevent injury to any single property, any individual, or to the community in general.

(f) A setback of 50 feet shall be provided along the entire perimeter of the development, except where it adjoins a Business or Industrial District in which case setback and screening requirements shall be at the discretion of the Planning Board. Where situated adjacent to a residentially zoned area, a minimum of 20 feet along the exterior property line shall be planted with evergreen shrubs not less than 4 feet in height at the time of planting. Open

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storage, service, and loading areas shall be screened by walls, fences, or other enclosures at least 6 feet in height. These walls, fences, or enclosures shall have an opaqueness of 75% or more. Screening facilities shall not obscure traffic visibility within 50 feet of an intersection. Said sight-proof screening provisions shall appear on the site plan submitted for a building permit, and shall be physically constructed when the business is occupied. These screening requirements may be waived if business is effectively screened by natural topography. The Planning Board shall determine by whatever means it deems necessary to make such determination, and grant such relief from this standard in writing to the proposed user of the land.

(g) Parking may be located in the front yard in the case of fast foods or carry-out restaurants only.

### (19) *Drive-in theater.*

(a) The lot location shall be such that at least 1 property line abuts a major thoroughfare and shall be at least 1,000 feet from any residentially zoned district.

(b) The premises shall be enclosed with a solid screen fence 7 feet in height.

(c) All points of entrances or exit shall be located no closer than 250 feet to any intersection (as measured to the nearest intersection right-of-way line).

(d) The interior of the premises shall be designed with respect to lighting, drainage and like, to the satisfaction of the Planning Board.

(e) Space shall be provided, on premises, for a reasonable amount of waiting vehicles to stand at the entrance of the facility.

(f) The theater screen shall not face, directly, or obliquely by less than 75 degrees, a major thoroughfare.

(g) Acceleration and deceleration lane shall be provided at points of public ingress and egress to the site.

(h) Individual loudspeakers for each car shall be provided and no central loudspeaker shall be permitted.

(i) Exits and aisles and passageways leading to them shall be kept adequately lighted at all times when open to the public. Artificial lights shall be provided whenever natural light is inadequate.

### (20) *Elderly housing.*

(a) In any zone where authorized, housing and related facilities for

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elderly or handicapped persons may be permitted upon a finding by the Planning Board that:

1. The proposed use will not produce adverse effects on the use or development of the surrounding area because of noise, traffic, type of physical activity, or any other reason.

2. The site has adequate accessibility to transportation, medical service, shopping areas, recreational and other community services frequently desired by elderly and handicapped persons.

3. The site is reasonably well protected from excessive noise, air pollution, and other harmful physical influences.

(b) The following development standards shall apply:

1. Minimum area of lot shall be 1½ acres, provided that in no case shall the minimum lot area be less than that specified in the zone in which the land is classified.

2. Minimum setbacks and lot coverage shall be as specified for the zone.

3. The Planning Board may permit a greater height than specified in the zone provided that the height shall not exceed 50 feet, unless an additional setback of 1 foot is provided for each additional foot of height above 50 feet.

4. Maximum density shall be as follows:

a. 1 residential unit per 3,000 square feet of net lot area in the R-2 District.

b. 1 residential unit per 1,500 square feet of net lot area in the R-3 District.

5. Ancillary facilities, such as dining rooms, workshops, and retail stores serving exclusively the occupants of the building may be included if loading areas serving these facilities are not visible from any property line and if there is no exterior announcement or other evidence of retail facilities.

(21) *Extraction activities.*

(a) The applicant shall secure a permit from the Ohio Department of Natural Resources, Division of Reclamation, in addition to any requirements imposed herein. Such permit shall be secured by the applicant prior to the granting of a special use certificate by the Planning Board.

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(b) An application for such operation shall set forth the following information: name of the owner or owners of land from which removal is to be made; name of the applicant making request for such permit; name of the person or corporation conducting the actual removal operation; location, description, and size of the area from which the removal is to be made; location of processing plant to be used; type of resources or materials to be removed; proposed method of removal and whether or not blasting or other use of explosives will be required; description of equipment to be used; and method of rehabilitation and reclamation of the mine area. Applications shall be submitted and hearings shall be conducted in the manner set forth in § 154.121 of this chapter, and in §§ 154.150 through 154.161.

(c) The applicant must demonstrate that such operations will not be detrimental to the vicinity or surrounding properties.

(d) All equipment used in these operations shall be constructed, maintained, and operated in such a manner as to eliminate so far as practical, noise, vibration, or dust which would injure or annoy persons living in the vicinity.

(e) No mining, quarrying, gravel or sand extraction, or stockpile shall be permitted nearer than 50 feet to the boundary of the property being utilized for such use, or such greater distance as specified by the Planning Board where such is deemed necessary for the protection of adjacent property. Such distance requirements may be reduced to 25 feet by written consent of the owner or owners of abutting property.

(f) In order to ensure adequate lateral support, all sand and gravel excavations shall be located at least 150 feet, or backfilled to at least 150 feet, and all quarrying or blasting shall be located at least 50 feet from the right-of-way line of any existing or platted street, road, highway, or railway, except that such excavation or quarrying may be permitted within these limits to the point of reducing the ground elevation to the grade of the existing or platted street, road, highway, or railway.

(g) Whenever the floor of a mine or quarry is more than 5 feet below the average grade of the highway, road, street, or land adjacent thereto, the property containing such quarry shall be completely enclosed by a barrier consisting of not less than a 6-foot mound of earth planted with suitable dense planting or other suitable material sufficient in either case to prevent persons from trespassing thereon or passing through. Such mound shall be located at least 25 feet from any street, road, highway, or boundary of the quarry property. Fencing or other suitable barrier shall be erected and maintained around the entire site or portions thereof where, in the opinion of the Planning Board, such fencing or barrier is necessary for the protection of the public safety and shall be of a type specified by the Board.

(h) All quarrying, blasting, drilling, or mining shall be carried out in a manner and on such scale as to minimize dust, noise, and vibrations and to prevent adversely



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affecting the surrounding properties.

(i) All means of access to the property from any street shall be so located and designed as to avoid the creation of dangerous or otherwise undesirable traffic conditions and so as to avoid the routing of vehicles to and from: the property over streets that primarily serve abutting residential development.

(j) All work conducted in connection with such operations shall be done between the hours of 7:30 a.m. and 5:00 p.m.

(k) When any quarrying has been completed, such excavated areas shall either be left as a permanent spring-fed lake if such lake has an average depth of 20 feet or more, or the bottom floor thereof shall be leveled to prevent the collection and stagnation of water and to provide property drainage without excessive soil erosion, and said floor shall be covered with soil of adequate thickness for the growing of turf or other ground cover. The edge of such excavation shall be further protected by construction of a barrier consisting of not less than a 6-foot mound of earth planted with a double row of multi-flora rose bushes or other equally effective planting.

(l) The banks of all excavations not backfilled shall be sloped to the water line at a grade of not less than 3 feet horizontal to 1 foot vertical, and such banks shall be sodded or surfaced with at least 6 inches of suitable soil and seeded with grass. Spoil banks shall be graded to a level suiting the existing terrain and planted with trees, shrubs, legumes, or grassed revegetation is possible. Where flood water exists, oil banks shall be high enough to prevent overflow of water in the gravel pits and shall be sloped, graded, and seeded as prescribed herein.

(m) All equipment and structures shall be removed from the mined area when all mining has been completed.

(n) There shall be filed with the City Clerk, a bond, payable to the city and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate of the required bond shall be fixed by ordinance of the City Council. The bond shall be released upon written certification of the Zoning Administrator that the restoration is completed and in compliance with the restoration plan.

(o) Extraction activities located within a WP Well Field Protection Overlay District shall also be in compliance with § 154.063(D)(2)(b).

### (22) *Funeral homes and mortuaries.*

(a) The property and building shall conform to the following:

1. The percentage of lot covered by buildings shall not exceed

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20%.

2. Minimum lot area, 1 acre.
3. Minimum front yard setback, 75 feet.
4. Minimum side yard setback, 25 feet each side.
5. Minimum rear yard setback, 25 feet.
6. Building height limit, same as specified in the applicable

zone.

7. Minimum frontage at the building line, 100 feet.

(b) All hearses, limousines, and other related business vehicles shall be stored within an enclosed building when not in use.

(c) The required number of off-street parking spaces shall be designed in parallel aisles so as to facilitate the structuring of funeral processions that leave from the funeral home site to travel to the cemetery.

(d) The following additional requirements shall also be met: special conditions, such as provisions for additional fencing or planting or other landscaping, additional setback from property lines, location and arrangement of lighting and other reasonable requirements deemed necessary to safeguard the general community interest and welfare, as may be invoked by the Board as requisites to the grant of a special use.

(23) *Gaming arcades.*

(a) Gaming arcades shall be located no closer than 1/2 mile from any elementary, junior, or senior high school; no closer than 500 feet of any church, no closer than 300 feet of any bar, tavern, or cocktail lounge.

(b) Minimum lot area shall be 10,000 square feet.

(c) All structures shall conform with the lot and screening requirements of the respective zoning district in which located and shall conform to the following when located adjacent to a residential structure: all structures shall be located at least 50 feet from any residential property, and a solid fence, wall or hedge 6 feet in height shall be provided on any side of the site adjacent to a residential property.

(d) Access shall be from an arterial or a commercial collector street, or shall be provided in a manner that does not cause excessive traffic on residential streets.

(e) No game arcade shall be open for business except between the

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hours of 10:00 a.m. and 10:00 p.m. on Sundays through Thursdays; and between the hours of 10:00 a.m. and 12:00 midnight on Fridays and Saturdays. Except that no person under 18 years of age may enter, be, or remain in any part of a game arcade during such times as the Tipp City School System is conducting its regular education program.

(f) Such activities shall be conducted entirely within an enclosed building.

(g) Gaming arcades shall have an adult who is 21 years of age or older on the premises, and supervising at all time the activities within the arcade during all hours of operation.

(24) [Reserved]

(25) *Hospitals.*

(a) Minimum lot size shall be 5 acres or 1,500 square feet per bed, whichever is greater.

(b) Minimum frontage shall be 200 feet.

(c) Setback. No portion of a building shall be nearer to the lot line than a distance equal to the height of that portion of the building, where the adjoining or the nearest adjacent land is zoned single family detached residential or is used solely for single family detached residences, and in all other cases not less than 50 feet from a lot line.

(d) Off-street parking shall be located so as to achieve a maximum of coordination between the proposed development and the surrounding uses and a maximum of safety, convenience and amenity for the residents of neighboring areas. Parking shall be limited to a minimum in the front yard. Green area shall be located so as to maximize landscaping features, screening for the residents of neighboring areas and to achieve a general effect of openness.

(e) Access shall be from an arterial street.

(f) The applicant shall request a recommendation from the Board with respect to a site plan, submitted by the applicant, achieving and conforming to the objectives and requirements of this subdivision for off-street parking and green area.

(g) Building height limit, 65 feet.

(h) A resolution by the Health Services Planning Board approving the establishment of the hospital shall be filed with the petition for a special use.

(26) *Motels.*

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- (a) Any lot to be used for a motel or hotel shall be at least 2 acres in area and shall contain at least 1,000 square feet per sleeping unit.
- (b) All structures shall be located at least 35 feet from any residential property, and a solid fence, wall or hedge 6 feet in height shall be provided on any side of the site adjacent to a residential property.
- (c) Access shall be from an arterial street or commercial collector or shall be provided in a manner that does not cause heavy traffic on residential streets.
- (d) Maximum building height 65 feet, subject to approval by the Fire Chief.

(27) *Nursing homes, convalescent homes, other than those facilities regulated by provisions under subdivision (16).*

- (a) Minimum lot size shall be 2 acres.
- (b) The lot location shall be such that at least 1 property line abuts a collector street, secondary thoroughfare or major thoroughfare. The ingress and egress for off-street parking areas for guests and patients shall be directly from said thoroughfare.
- (c) The main and accessory buildings shall be setback at least 75 feet from the front property line, providing a minimum of 20-foot side yards on both sides.
- (d) The facility shall be designed to provide a minimum of 500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may not include off-street parking areas, driveways, required yard setback and accessory uses.

(28) *Riding academies, stables.*

- (a) Minimum lot area shall be 10 acres.
- (b) Minimum setback lines for any structures, pens or corrals housing animals shall be 200 feet from an adjoining property line, except where animals are kept in soundproof air conditioned buildings, in which case the required setback line is 100 feet.
- (c) Fencing shall be provided adequately to enclose the activities therein, and landscape screening shall be provided whenever such use abuts a residential zone district.
- (d) Sanitation facilities shall be approved by local Health District.

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(29) *Sanitary landfill.*

(a) The applicant must secure both a permit and an operating license from the Ohio Department of Health.

(b) The sanitary landfill site shall have adequate access onto a hard surfaced state highway, county, or city road, that is regularly maintained.

(c) The sanitary landfill site shall be a minimum distance of:

1. 1,000 feet from any state highway frontage.
2. 1,500 feet from any residence.
3. 1,000 feet from any Residential District.

(d) The sanitary landfill site shall be properly screened for vector control so that refuse does not spill over onto adjacent property.

(e) The sanitary landfill site must be approved by City Council.

(30) *Schools.*

(a) For the purposes of this section, schools are deemed to include public and private schools. Accessory uses and buildings necessary for the carrying out of the school program are permitted.

1. Elementary schools: 5 acres for 200 pupils or less, plus 1 acre for each additional 100 pupils of maximum anticipated enrollment, provided, however, if an elementary school is located contiguous to a public park or other public open space of a perpetual nature of at least 5 acres and the responsible agencies, therefore, have provided for the continuing joint usage of both the school and the open space, then the minimum lot area for such elementary school shall be 3 acres for 200 pupils or less, plus 1 acre for each additional 100 pupils of maximum anticipated enrollment.

2. Junior high school: 10 acres for 300 pupils or less, plus 1 acre for each additional 100 pupils of maximum anticipated enrollment.

3. High school. 12 acres for 300 pupils or less, plus 1 acre for each additional 100 pupils of maximum anticipated enrollment.

(b) Location. An elementary school site shall be located with at least 200 feet of frontage on a street designed as a collector street or higher. Junior high and high schools shall be located with at least 200 feet of frontage on a street designed as a secondary arterial or higher.

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(c) Minimum setback lines of at least 50 feet shall be provided along all street right-of-way lines and adjoining property lines.

(31) *Temporary and/or outdoor sales of plants and garden supplies.*

(a) Such uses shall not be placed within the street right-of-way, within an interior drive, or in a location which will interfere with vehicle sight distance.

(b) Placement of the use will not result in the reduction of the number of parking spaces required to serve the principal use(s) on the site.

(c) The subject use shall be maintained in good order and appearance.

(d) Signage shall be controlled by the provisions of the specific zoning district in which located.

(e) A specific schedule of operation shall be filed and approved as part of the submitted application for special use.

(32) *Wireless telecommunications facilities and transmission lines (69,000 volts or over).*

(a) Wireless telecommunication facilities, see Chapter 156 for additional requirements.

(b) The Planning Board shall consider the following when ruling upon a request for distribution lines in excess of 69,000 volts:

1. The proposed use does not have an unduly adverse affect on the general plan for the physical development of the district as contained in any master plan or portion thereof adopted by the Board.

2. The proposed use will not affect adversely the health and safety of residents or workers in the area.

3. There is a public necessity for the proposed building, structure of facility at the location selected.

4. The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.

(c) In making such findings, the Planning Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review.

1. Points at which the proposed line crosses heavily traveled

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highways or streets, or other arteries of transportation, either existing or proposed.

2. Proximity of the line to schools, churches, theaters, clubs, museums, fairgrounds or other places of assembly, either existing or proposed.

3. The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, either existing or proposed.

4. Any fire hazard or interference with fire fighting equipment due to the location and construction of the proposed line.

5. Proximity of the line to public parks and recreational areas, either existing or proposed.

6. Effect upon property values of those who will not be compensated for a taking under the laws of the state.

7. The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and green belt areas.

8. Proximity of the line to historic sites and structures.

(d) To reduce the proliferation of the unusual structures associated with these special uses and discourage their abandonment any operator of such a facility located within Tipp City shall provide notification of any proposed discontinuation of its use.

1. The notification shall be in writing to the city and to the owner of the property on which the facility is located. It shall be a minimum of 30 days prior to the cessation date. It shall include information regarding the location of the facility, a description of the facility and its equipment, both removed and remaining, and the proposed date the use will cease, and the expected duration of the cessation, if temporary.

2. The facility may be considered abandoned if its use is discontinued for a period of 180 days. The Zoning Administrator shall notify the owner of the property on which the facility is located of such abandonment. The notice of abandonment shall order the reactivation of the facility or its dismantlement and removal.

3. The owner of the property shall be provided a 30 day period to achieve compliance and shall be provided an opportunity to be heard before the Board of Zoning Appeals, as provided in § 154.176.

4. If compliance is not made, and the facility remains abandoned, it shall be considered a public nuisance. The city may order abatement of the nuisance as provided in its public nuisance regulations. If reactivation or dismantling does not

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occur, the city may either remove the facility or contract to have the facility removed and assess the costs to the owner of the property on which the facility is located. Said removal or dismantling may include equipment, appurtenances, towers, security fencing, and any other parts of the facility.

(33) *Townhouses.*

- (a) Minimum lot areas shall be 3,500 square feet per unit.
- (b) Minimum front yard shall be 35 feet.
- (c) Minimum rear yard shall be 40 feet.
- (d) A minimum of 15 feet shall be maintained between principal structures.
- (e) There shall be no continuous structure of townhouses containing more than 6 dwelling units side by side.
- (f) All other requirements as specified for multi-family structures.

(34) *Transitional parking lots serving commercial uses within residentially zoned areas.*

- (a) Substantiation must be demonstrated that such a parking facility is necessary for the public convenience and will not have an adverse effect on adjacent properties.
- (b) All yard, construction and screening requirements of § 154.072 must be complied with.
- (c) Access drives shall be located so as not to contribute to increase traffic flow upon adjacent residential streets.

(35) *Two-family dwelling.*

- (a) Minimum lot area shall be 11,000 square feet.
- (b) Minimum lot width shall be 80 feet.
- (c) Minimum front yard shall be 35 feet.
- (d) Minimum rear yard shall be 30 feet.
- (e) Minimum side yard width on each side shall be 10 feet.
- (f) All other standards shall be as provided within the respective zoning district in which the site is located.



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(36) *Zero lot line residences.*

- (a) Minimum lot areas - 5,500 square feet per dwelling.
- (b) Minimum lot width - 40 feet.
- (c) Minimum front setback - 25 feet from street right-of-way line regardless of whether this front setback is part of an individual lot or part of the common open space.
- (d) Minimum side setback - none except that there shall be a minimum clearance of 20 feet between buildings.
- (e) Minimum rear yard depth - none except that there shall be a minimum clearance of 20 feet between buildings.
- (f) Maximum height - 35 feet or 2½ stories.
- (g) Maximum lot coverage - 75% of the lot area.
- (h) Zero lot dwellings shall be constructed against the lot line on the side of the lot and no windows, doors, or other opening shall be permitted on this side unless the zero line abuts plazas, parks, malls, or other permanent public open green space in which case openings shall be permitted. Where adjacent zero lot line dwellings are not constructed against a common lot line, the building or developer must provide for a perpetual wall maintenance easement of 5 feet in width along the adjacent lot and parallel with such wall.
- (i) An attached or detached garage or car-port may abut a side property line or another structure, provided no openings are located on the abutting surfaces.

(37) The following standards and criteria shall apply to special uses in any Residential District not previously listed within specific standards.

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted within it, its relation to streets giving access to it shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection with it will not be hazardous, inconvenient, or conflict with the normal traffic on residential streets, both at the time and as the same may be expected to increase with any prospective increase in the population of the area, taking into account convenient routes of pedestrian traffic, particularly of children, in relation to main traffic, thoroughfares and to street intersections, and the general character and intensity of development of the area.
- (b) The location and heights of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and

buildings.

(38) The following standards and criteria shall apply to special uses in any Commercial or Industrial District not previously listed within special standards.

(a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, its size layout and its relation to street giving access to it shall be such that vehicular traffic to and from the use will not be more hazardous than the normal traffic of the district, both at the time and as the same may be expected to increase with increasing development of the municipality taking into account vehicular turning movements in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.

(b) The nature, location, size, and site layout of the use shall be such that it will be a harmonious part of the business or industrial district in which it is situated, taking into account prevailing shopping habits, convenience of access by prospective patrons, the physical and economic relationships of 1 type of use to another, and characteristic groupings of uses in a commercial or industrial district.

(1974 Code, § 154.112) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994; Am. Ord. 30-94, passed 9-19-1994; Am. Ord. 5-98, passed 2-2-1998; Am. Ord. 19-01, passed 10-15-2001; Am. Ord. 28-02, passed 8-19-2002; Am. Ord. 06-05, passed 2-22-2005; Am. Ord. 06-06, passed 2-21-2006)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / NONCONFORMING LOTS, STRUCTURES, AND USES**

### ***NONCONFORMING LOTS, STRUCTURES, AND USES***

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / NONCONFORMING LOTS, STRUCTURES, AND USES / § 154.135 PURPOSE.**

### **§ 154.135 PURPOSE.**

This chapter established separate districts, each of which is an appropriate area for the location of the uses which are permitted in that district. Within such established districts as well as those which may be established by future amendments, there are and will be lots, uses of land, structures and uses of structures and land in combination which were lawful before this

resolution was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments. Since such nonconformities are deemed incompatible with the districts in which they are located, it is the intent of this subchapter to specify those circumstances and conditions under which such nonconformities shall be permitted to continue, but not to encourage their survival. Rather, it is the intent of this chapter to encourage either the conversion of nonconforming uses into conforming uses as soon as reasonably possible or their eventual and equitable elimination.

(1974 Code, § 154.120) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / NONCONFORMING LOTS, STRUCTURES, AND USES / § 154.136 RESTRICTIONS ON NONCONFORMING LOTS, STRUCTURES, AND USES.**

**§ 154.136 RESTRICTIONS ON NONCONFORMING LOTS, STRUCTURES, AND USES.**

(A) *General.* Any nonconforming lot, structure, or use which existed lawfully at the time of the adoption of this chapter and which remains nonconforming, as well as any which shall become nonconforming upon any subsequent amendments thereto, may be continued but shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. No additional signs intended to be seen from off the premises shall be utilized in conjunction with nonconforming uses of land or structures shall be permitted upon passage of this chapter.

(B) *Single nonconforming lots of record.* In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory building may be erected on a single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of this chapter. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lots are located. Variances of requirements listed in §§ 154.040 through 154.061 and §§ 154.120 through 154.122 of this chapter other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in §§ 154.178 through 154.180.

(C) *Two or more lots or combinations of lots.* If 2 or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of

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passage or amendment of this chapter and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot widths and area requirements established by this chapter, nor shall any division of any parcel be made which creates a lot with a width of area below the requirements stated in this chapter.

(D) *Nonconforming uses of land.* Where, at the time of adoption of this chapter, lawful uses of land exist which would not be permitted by the regulations imposed by this chapter the uses may be continued so long as they remain otherwise lawful, provided:

(1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.

(2) No such nonconforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this chapter.

(3) If any such nonconforming uses of land are discontinued or abandoned for more than 6 months (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.

(4) No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

(E) *Nonconforming structures.* Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reasons of restriction on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity;

(2) Should such nonconforming structure or nonconforming portion of structure be destroyed by any means, it shall not be reconstructed except in conformity with the provision of this chapter;

(3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is

moved.

(F) *Nonconforming uses of structures or of structures and land in combination.* If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(1) No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

(2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;

(3) If no structural alterations are made, any nonconforming use of a structure or structure and land, may, upon appeal to the Board of Zoning Appeals, be changed to another nonconforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of the chapter.

(4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

(5) When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for more than 2 years (except when government action impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

(G) *Relocation of building or structure.* No building or structure shall be moved in whole or in part to any other location on the same or any other lot unless every portion of such building or structure which is moved, and the use thereof, is made to conform to all of the regulations of the district in which it is to be located.

(H) *Displacement.* No nonconforming use shall displace a conforming use.

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(I) *Repairs and maintenance.* On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order by such official.

(J) *Restoration.* Whenever a building, the use of which does not conform to the provisions of this chapter is damaged by fire, explosion, or act of God to the extent of 60% or more of its assessed value, it shall not be restored except in conformity with the district regulations of the district in which it is located.

(K) *Discontinuance and abandonment.* Whenever a nonconforming use has been discontinued for a period of 6 months or more, such discontinuance shall be considered legal abandonment of the nonconforming use. At the end of that 6-month period, the nonconforming use shall not be reestablished, and any further use shall be in conformity with the provisions of the chapter.

(L) *Elimination on nonconforming signs.* Any sign which is nonconforming as to type, location, zoning district, size, setback, or for any other reason (except those signs that are an adjunct to the use of any valid nonconforming building or structure, in which case they shall be regulated by the provisions applicable to such structure) shall be altered, moved, converted, or removed within 5 years of the date of adoption of this chapter.

(M) *Avoidance of undue hardships.* To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Zoning Code and upon which actual building construction has been diligently carried on.

(1974 Code, § 154.121) (Ord. 26-93, passed 8-16-1993)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS**

#### ***AMENDMENTS TO ZONING REGULATIONS***

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.150 GENERAL.**

**§ 154.150 GENERAL.**

Whenever the public necessity, convenience, general welfare or good zoning practices require, City Council may by ordinance after receipt of recommendation thereon from the Planning Board, and subject to procedures provided by law, amend, supplement, change or repeal the regulations, restrictions, and boundaries or classification or property.

(1974 Code, § 154.130) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.151 INITIATION OF ZONING AMENDMENTS.**

**§ 154.151 INITIATION OF ZONING AMENDMENTS.**

Amendments of this chapter may be initiated in one of the followings ways;

- (A) By adoption of a motion by the Planning Board;
- (B) By adoption of a recommendation by City Council; or
- (C) By the filing of an application by at least 1 owner of property within the area proposed to be changed or affected by said amendment.

(1974 Code, § 154.131) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.152 CONTENTS OF APPLICATION.**

**§ 154.152 CONTENTS OF APPLICATION.**

(A) Applications for amendments to the Official Zoning Map adopted as part of this chapter by § 154.015 shall contain at least the following information;

- (1) Name, address, and phone number of applicant;
- (2) Present use;
- (3) Present zoning district;

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- (4) Proposed use;
  - (5) Proposed zoning district;
  - (6) A vicinity map at a scale approved by the Zoning Enforcement Office showing property lines, thoroughfare, existing and proposed zoning and such other items as the Zoning Inspector may require;
  - (7) A list of all property owners and their mailing addresses who are within, or within 200 feet from the parcel(s) proposed to be rezoned except that addresses need not be included where more than 10 parcels are to be rezoned;
  - (8) Specific reason(s) justifying the application for amendment;
  - (9) Response to all pertinent questions contained within the application form;
  - (10) A fee as established by City Council according to § 154.215.
- (B) Application for amendments proposing to amend, supplement, change, or repeal portions of this chapter, other than the official zoning map shall include, in addition to the proposed amending ordinance, approved as to form by the City Legal Advisor, items (1), (2), (8) and (9) listed above.

(1974 Code, § 154.132) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.153 TRANSMITTAL TO PLANNING BOARD.**

**§ 154.153 TRANSMITTAL TO PLANNING BOARD.**

Immediately after the adoption of a recommendation by the City Council or the filing of an application by at least 1 owner of property, said resolution or application shall be transmitted to the Commission.

(1974 Code, § 154.133) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.154 PUBLIC HEARING BY PLANNING BOARD.**



**§ 154.154 PUBLIC HEARING BY PLANNING BOARD.**

Upon receipt of said request for amendment, the Planning Board shall schedule a public hearing should it deem one necessary. Said public hearing shall not be less than 20 nor more than 60 days from the receipt of the request.

(1974 Code, § 154.134) (Ord. 26-93, passed 8-16-1993; Am. Ord. 14-94, passed 6-6-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.155 NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

**§ 154.155 NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

Notice of the public hearing required in § 154.134 shall be given by the city through at least 1 publication in 1 or more newspapers of general circulation in the city at least 10 days in advance of the hearing.

(1974 Code, § 154.135) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.156 NOTICE TO PROPERTY OWNERS BY PLANNING BOARD.**

**§ 154.156 NOTICE TO PROPERTY OWNERS BY PLANNING BOARD.**

In addition to the published notice as hereinbefore specified, the Planning Board shall give notice of the time, place and purpose of public hearings to be held by it on proposed amendments or supplements, by mailing a postal card or letter notice not less than 10 days prior to the date of hearing, to the owners of all properties lying within 200 feet of any part of the property proposed to be changed. The failure to notify as provided in this section, shall not invalidate any recommendation adopted hereunder; it being the intention of this section to provide, so far as may be practical, due notice to the persons substantially interested in the proposed change that an application is pending before the Board, proposing to make a change in the zoning map or the regulations set forth in this chapter.

(1974 Code, § 154.136) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.157 RECOMMENDATION BY PLANNING BOARD.**

**§ 154.157 RECOMMENDATION BY PLANNING BOARD.**

Within 25 days from the date of the public hearing, the Planning Board shall transmit its recommendation to the City Council. The Planning Board may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied.

(1974 Code, § 154.137) (Ord. 26-93, passed 8-16-1993; Am. Ord. 14-94, passed 6-6-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.158 PUBLIC HEARING BY CITY COUNCIL.**

**§ 154.158 PUBLIC HEARING BY CITY COUNCIL.**

Upon receipt of the recommendation from the Planning Board, City Council shall schedule a public hearing. Said hearing shall not be less than 20 nor more than 60 days from receipt of the recommendation from the Planning Board.

(1974 Code, § 154.138) (Ord. 26-93, passed 8-16-1993; Am. Ord. 14-94, passed 6-6-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.159 NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

**§ 154.159 NOTICE OF PUBLIC HEARING IN NEWSPAPER.**

Notice of the public hearing required in § 154.158 shall be given by City Council by at least 1 publication in 1 or more newspapers of general circulation in the city. Said notice shall be published at least 10 days before the date of the required hearing. The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment.

(1974 Code, § 154.139) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.160 NOTICE TO PROPERTY OWNERS BY CITY COUNCIL.**

**§ 154.160 NOTICE TO PROPERTY OWNERS BY CITY COUNCIL.**

(A) If the proposed amendment intends to rezone or redistrict 10 or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council, by first class mail, return receipt requested, at least 15 days before the day of the public hearing to all owners of property within 200 feet of any part of such area proposed to be rezoned or redistricted to the address of such owners appearing on the County Auditor's current tax list or the Treasurer's mailing list and to such other list or lists that may be specified by City Council. The failure to deliver the notification, as provided in this section shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in § 154.159.

(B) In the case of a rezoning of a specific lot, the Zoning Administrator shall cause a printed sign to be placed on the subject property in a prominent position bearing the legend "rezoning pending from... classification to... classification." The sign shall be posted 15 days prior to the date of the hearing.

(1974 Code, § 154.140) (Ord. 26-93, passed 8-16-1993; Am. Ord. 14-94, passed 6-6-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / AMENDMENTS TO ZONING REGULATIONS / § 154.161 ACTION BY CITY COUNCIL.**

**§ 154.161 ACTION BY CITY COUNCIL.**

(A) Within 15 days after the public hearing required by § 154.158 the City Council shall either adopt or deny the recommendation of the Planning Board or adopt some modification thereof. In the event the City Council denies or modifies an adverse recommendation of the Planning Board, it must do so by not less than a 2/3 vote of the members present of the City Council, with a minimum of 4 votes.

(B) No such ordinance shall be passed unless it has been fully and distinctly read in accordance with the Rules of Council on 2 different days except that such ordinance may become

emergency legislation if 2/3 of the members of City Council vote to dispense with this rule.

(1974 Code, § 154.141) (Ord. 26-93, passed 8-16-1993; Am. Ord. 13-94, passed 6-6-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS**

***PROCEDURE AND REQUIREMENTS  
FOR VARIANCES AND APPEALS***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.175 VARIANCES.**

**§ 154.175 VARIANCES.**

A variance from the terms of this chapter shall not be granted by the Board of Zoning Appeals unless and until:

(A) A written application for a variance is submitted to the Board which shall contain the following:

- (1) Name, address and telephone number of the applicant;
- (2) The nature of the variance including the specific section of the zoning code from which the variance is requested;
- (3) A legal description of the property;
- (4) Area of the property in square feet or acres;
- (5) Description of the existing use of the property;
- (6) Zoning district in which the property is situated;
- (7) A narrative statement which explains how the application meets each of the standards for a variance in division (C) of this chapter;
- (8) The fee required for a variance as provided by § 154.215 of this chapter is paid.

(B) A public hearing is held pursuant to § 154.177 of this chapter.

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(C) The Board shall make written findings of fact, based on the particular evidence presented to it, that each and every 1 of the following standards for a variance are met by the application:

(1) The particular physical surroundings, shape, or topographical condition of the specific property would cause particular and extraordinary hardship to the owner if the literal provisions of the zoning code were followed;

(2) The alleged hardship has not been created by the applicant for the variance after the adoption of the zoning code;

(3) The granting of a variance will not be materially detrimental to the public health, safety, convenience, or general welfare or injurious to other property or improvements in the vicinity;

(4) The granting of a variance will not constitute a grant of a special privilege, denied by this chapter to other property in the same zoning district, or permit a use not expressly allowed by this chapter, or permit a use prohibited expressly or by implication to other property in the same district. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the granting of a variance.

(D) The Board shall further make a written finding that the reasons set forth in the application justify the granting of a variance, and that the variance is the minimum variance that will make possible the reasonable use of the property. When a variance is denied, a written statement shall set forth the reason(s) therefor.

(E) The Board may grant variances only in the following instances and no others:

(1) To permit any yard or setback less than a yard or a setback required by the applicable regulations;

(2) To permit the use of a lot or lots for a use otherwise prohibited solely because of the

insufficient area or width of the lot or lots, but in no event shall the respective area and width of the lot or lots be less than 80% of the required area and width;

(3) To permit the same off-street parking facility to qualify as required facilities for 2 or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week;

(4) To reduce the applicable off-street parking or loading facilities required by not more than 1 parking space or loading space, or 30% of the required facilities, whichever

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number is greater;

(5) To allow for the deferment of required parking facilities for a reasonable period of time, such period of time to be specified in the variance;

(6) To increase by not more than 40% the maximum distance that required parking spaces are permitted to be located from the use served;

(7) To increase the maximum allowable size or area of signs on a lot by not more than 25%; and

(8) To modify the design standards specified for business and commercial establishments in § 154.061.

(9) To vary the design standards for principal and accessory residential uses, other than those applying to lot area per dwelling unit, and minimum lot area or width.

(10) To modify the minimum number of off- street parking and/or loading spaces, and other parking or loading requirements as established in §§ 154.070 through 154.081 as referenced by § 154.047(D) Office-Service, § 154.048(D) Convenience Business District, § 154.049(D) General Business District, § 154.050(D) Highway Service District, § 154.051(D) Community Center District, § 154.053(D) Light Industrial District, § 154.054(D) Light Industrial District, § 154.055(D) General Industrial, § 154.056(K) Planned Commercial District, § 154.056(L)(10) Planned Highway Service District, § 154.056(M)(12) Planned Office/Industrial District, and § 154.057(D) Conservation District.

(1974 Code, § 154.150) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000; Am. Ord. 18-01, passed 10-15-2001)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.176 APPEALS.**

#### **§ 154.176 APPEALS.**

(A) Appeals to the Board of Zoning Appeals for administrative review, or variances may be taken by any person or by any officer of the city affected by any decision of the Zoning Enforcement Officer. Such appeal shall be taken within 10 days after the decision by filing with the Zoning Enforcement Officer and with the Board, a notice of appeal specifying the grounds thereof. The Zoning Enforcement Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(B) An appeal of any decision by the Zoning Enforcement Officer shall stay all

proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies that, by reason of facts pertaining to the matter in question, a stay would cause imminent peril to life and property. When certification is made, proceedings shall not be stayed except by a restraining order granted by the Board or by a court of competent jurisdiction.

(1974 Code, § 154.151) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.177 HEARING.**

**§ 154.177 HEARING.**

(A) The Board of Zoning Appeals shall hear applications for variances, appeal petitions, and conduct any other business at public meetings in the manner prescribed in §§ 36.015 through 36.022 of this Code.

(B) The Board shall give at least 10 days written notice thereof to the owners of property adjacent to the applicant's property and directly across any public right-of-way from the applicant's property.

(C) In addition, public notice of such hearings as to the time, place, date and subject of the hearing shall be published in a newspaper of general circulation at least 7 days prior to the date of the hearing. Any party in interest may appear and be heard at the hearing in person, by agent or by attorney.

(1974 Code, § 154.152) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.178 DECISION ON APPEALS.**

**§ 154.178 DECISION ON APPEALS.**

The Board shall render a decision by roll-call vote on the application without unreasonable delay and, in all cases, within 30 days after the close of the hearing. The record of the hearing shall become journalized by formal adoption of the minutes at a later meeting of the Board.

(1974 Code, § 154.153) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.179 PERIOD OF VALIDITY.**

**§ 154.179 PERIOD OF VALIDITY.**

A variance granted by the Board shall terminate at the end of 1 year from the date on which the Board grants the variance, unless within the 1 year period, a zoning permit is obtained.

(1974 Code, § 154.154) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / PROCEDURE AND REQUIREMENTS FOR VARIANCES AND APPEALS / § 154.180 REAPPLICATION.**

**§ 154.180 REAPPLICATION.**

No application for administrative review, or variance which had been denied wholly or in part by the Board of Zoning Appeals shall be resubmitted until the expiration of 1 year or more of such denial, except on grounds of newly discovered evidence or proof which the Board of Zoning Appeals deems sufficient to justify reconsideration. A substantial modification of a request for a variance may be submitted as a new application, however, without regard to the 1-year limitation. Before ruling on the new application, the Board shall first determine if the modification of the request is substantial.

(1974 Code, § 154.155) (Ord. 26-93, passed 8-16-1993; Am. Ord. 18-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT**

***ADMINISTRATION AND ENFORCEMENT***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.195 OFFICE OF ZONING ENFORCEMENT OFFICER.**



**§ 154.195 OFFICE OF ZONING ENFORCEMENT OFFICER.**

The Zoning Administrator shall administer and enforce this chapter. The Zoning Administrator may be provided with the assistance of such other persons as the City Manager may direct.

(1974 Code, § 154.165) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.196 DUTIES OF ZONING ENFORCEMENT OFFICER.**

**§ 154.196 DUTIES OF ZONING ENFORCEMENT OFFICER.**

For the purpose of this chapter, the Zoning Enforcement Officer shall have the following duties:

- (A) Upon finding that any of the provisions of this chapter are being violated, the Enforcement Officer shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation;
- (B) Order discontinuance of illegal uses of land, buildings, or structures;
- (C) Order removal of illegal buildings or structures or illegal additions or structural alterations;
- (D) Order discontinuance of any illegal work being done;
- (E) Take any other action authorized by this chapter to ensure compliance with or to prevent violation(s) of this chapter. This may include the issuance of and action on zoning and certificate of occupancy permits and such similar administrative duties as are permissible under the law.

(1974 Code, § 154.166) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.197 COMPOSITION OF PLANNING BOARD.**

**§ 154.197 COMPOSITION OF PLANNING BOARD.**

(A) The Planning Board should consist of 5 residents of the city appointed by Council to serve without compensation for terms of 3 years.

(B) The officers of the Planning Board shall consist of a Chairperson, Vice Chairperson and Secretary elected by the Commission at its annual meeting for a term of 1 year.

(1974 Code, § 154.167) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.198 PROCEEDINGS OF PLANNING BOARD.**

**§ 154.198 PROCEEDINGS OF PLANNING BOARD.**

The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this chapter and with the rules and procedures as adopted by the City Council. Meetings shall be held at the call of the Chairperson and at such other times as the Board may determine. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall keep records of its examinations and other official actions all of which shall be a public record and be immediately filed in the office of the Board. At any meeting of the Planning Board, a quorum should consist of 3 members of the Board. No action shall be taken in the absence of a quorum, except to adjourn the meeting to a subsequent date.

(1974 Code, § 154.168) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.199 RESPONSIBILITIES OF PLANNING BOARD.**

**§ 154.199 RESPONSIBILITIES OF PLANNING BOARD.**

For the purpose of this chapter, the Board shall have the following duties:

(A) Recommend the proposed Zoning Ordinance, including text and official Zoning District Map to the City Council for formal adoption.

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(B) Initiate advisable official Zoning District Map changes, or changes in the text of the Zoning

Code where same will promote the best interest of the public in general through recommendation to the City Council.

(C) Review all proposed amendments to this chapter (text and/or map) and make recommendations to the City Council.

(D) Review all planned unit development and make recommendations to the City Council as provided in § 154.056.

(E) Review all special uses as identified in the respective zoning districts according to provisions and criteria stated in §§ 154.120 through 154.122.

(F) The City Planning Board and pertinent city staff shall carry on a continuous review of the effectiveness and appropriateness of the Zoning Ordinance and recommend such changes or amendments as they feel would be appropriate to update this chapter.

(1974 Code, § 154.169) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.200 COMPOSITION OF BOARD OF ZONING APPEALS.**

**§ 154.200 COMPOSITION OF BOARD OF ZONING APPEALS.**

The authority, duties, and responsibilities of the Board of Zoning Appeals, as provided in this chapter, are hereby vested in the Board of Appeals, which is established by the City Charter and governed by §§ 36.015 through 36.022 of this Code.

(1974 Code, § 154.170) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.201 PROCEEDINGS OF BOARD OF ZONING APPEALS.**

**§ 154.201 PROCEEDINGS OF BOARD OF ZONING APPEALS.**

The Board may adopt rules necessary to the conduct of its officers in compatibility with

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the rules and procedures prescribed in this Chapter and in Chapter 36 as adopted by the City Council.

(1974 Code, § 154.171) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.202 RESPONSIBILITIES OF BOARD OF ZONING APPEALS.**

**§ 154.202 RESPONSIBILITIES OF BOARD OF ZONING APPEALS.**

The Board of Zoning Appeals shall have the following powers and duties:

(A) *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Enforcement Officer in the enforcement of this chapter.

(B) *Variances.* To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship.

(C) *Determination of district boundary locations.* To determine the exact location of any district boundary, if there is uncertainty as to the exact location thereof on the Official Zoning Map.

(D) *Interpretation.* To determine the intent and meaning of any wording or provisions of the Zoning Ordinance.

(1974 Code, § 154.172) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.203 RESPONSIBILITIES OF ZONING ENFORCEMENT OFFICER, BOARD OF ZONING APPEALS, PLANNING BOARD AND COURTS ON MATTERS OF APPEAL.**

**§ 154.203 RESPONSIBILITIES OF ZONING ENFORCEMENT OFFICER, BOARD OF ZONING APPEALS, PLANNING BOARD AND COURTS ON MATTERS OF APPEAL.**

(A) It is the intent of this chapter that all questions of interpretation shall be first

presented to the Zoning Enforcement Officer, and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the decision of the Zoning Enforcement Officer. Any appeal of a decision of the Board shall be made to the Council. Any such appeal shall be made within 10 days of the Board's decision. Following Council's decision, the applicant may appeal to the courts as provided in R.C. Chapters 2505 and 2506.

(B) Where the Planning Board is specifically authorized by the provisions of this chapter to issue approvals or denials, such as in the administration of Special Use Permits, Temporary Use Permits, and the like; or to take other administrative actions; a decision of the Planning Board may be appealed directly to the Board of Zoning Appeals in the same manner as a decision of the Zoning Enforcement Officer. The Board of Zoning Appeals shall not have authority under this section to hear an appeal of a decision of the Planning Board when it is making a recommendation to Council, as in a Zoning Ordinance amendment or a Planned Development application.

(1974 Code, § 154.173) (Ord. 26-93, passed 8-16-1993; Am. Ord. 17-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION  
AND ENFORCEMENT / § 154.204 CITY COUNCIL.**

**§ 154.204 CITY COUNCIL.**

The powers and duties of Council pertaining to the city zoning ordinance shall be as follows:

- (A) Council shall appoint members to the City Planning Board.
- (B) Council shall appoint members to the Board of Zoning Appeals.
- (C) Initiate or act upon suggested amendments to the Zoning Ordinance text or Official Zoning District Map, in accordance with the provisions of §§ 154.150 through 154.161.
- (D) Hearing appeals from Board of Zoning Appeals decisions. A decision of the Board of Zoning Appeals may be appealed to the Council within 10 days of the Board's decision. Notice of appeal must be filed with the City Manager and may be filed by the applicant or by any party deemed by Council to have interest in the decision appealed. The appellant and other interested parties shall be advised of the date and time of the appeal before Council. In deciding the appeal, Council may:

- (1) Reverse the decision of the Board;
- (2) Affirm the decision of the Board;

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- (3) Modify the decision of the Board;
  - (4) Reject the appeal on the ground that the appellant does not have sufficient interest in the decision to file an appeal;
  - (5) Remand the appeal to the Board for reconsideration if the Council determines there is new evidence or a modification of the extent or amount of a request for a variance; or
  - (6) Take no action on the appeal within 45 days. At the expiration of the period the appellant shall have recourse to the court of common pleas.
- (E) Council shall appoint members to the Restoration and Architectural Board of Review.

(1974 Code, § 154.174) (Ord. 26-93, passed 8-16-1993; Am. Ord. 19-00, passed 8-7-2000)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.205 ZONING PERMITS REQUIRED.**

**§ 154.205 ZONING PERMITS REQUIRED.**

No building or other structure shall be erected, moved, added to, structurally altered nor shall any building, structure, or land be established or changed in use without a permit therefore, issued by the Zoning Inspector. Zoning permits shall be issued only in conformity with the provisions of this chapter unless the Zoning Enforcement Officer receives a written order from the Board of Zoning Appeals deciding an appeal, use, or variance; or from the Planning Board approving a special use; or from City Council approving a Planned Unit Development District, as provided by this chapter.

(1974 Code, § 154.175) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.206 CONTENTS OF APPLICATION FOR ZONING PERMITS.**

**§ 154.206 CONTENTS OF APPLICATION FOR ZONING PERMITS.**

The application for zoning permit shall be signed by the owner or applicant attesting to the truth and exactness of all information supplied on the application. Each application shall

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clearly state that the permit shall expire and may be revoked if work has not begun within 1 year or substantially completed within 2½ years. At a minimum, the application shall contain the following information:

- (A) Name, address, and phone number of applicant;
- (B) Description of property;
- (C) Existing use;
- (D) Proposed use;
- (E) Zoning district;
- (F) Plans in triplicate drawn to scale, showing the following:
  - (1) Lot number(s), address(es) and names of adjoining streets,
  - (2) The actual dimensions and the shape of the lot to be built upon;
  - (3) The exact size (per outside dimensions) and location of existing buildings and structures on the lot, if any;
  - (4) The exact location and dimensions of all proposed building(s), structures, signs, or other significant proposed features including the distances between the front, rear and side property lines as they relate to proposed features or alterations;
  - (5) The proposed front, side and rear yard setbacks;
  - (6) The location and size of any utility, stormwater, or other easements;
  - (7) The approximate location of utility lines such as water, sewer, gas, electric, cable T.V or similar facilities;
  - (8) The location, width, maximum slope and surface paving material of driveways, with the distances between other driveways and adjacent property lines;
  - (9) The location of parking and loading areas, together with a description of the surface paving type, the size and number of stalls or loading berths, location of parking blocks and curbs, the width of aisles and general traffic movement patterns;
  - (10) The existing and proposed subsurface and stormwater drainage flow patterns, drainage easements, the approximate location of field tiles, areas subject to high water, flooding conditions, seasonably wet areas;
  - (11) For new construction, the elevation of each floor and the existing and proposed pad elevations;

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(12) Spot elevations of the lot, frontage road and areas within 200 feet of the lot, made in accordance with sound surveying and engineering standards;

(13) A completed preliminary Flood Elevation Certificate for any construction adjacent to or within areas identified as flood hazard areas on the Tipp City Zoning Map or on FEMA flood maps;

(14) The location, sizes and types of all areas of landscaping and screening as required to screen parking areas, trash collection facilities, and adjoining properties,

(15) The location of, size of, and vegetation in major natural areas, open spaces and recreational areas, if any;

(16) Floor plans for the proposed structure, showing dimensions and proposed uses of rooms and elevation views of each side of the building;

(G) Building heights;

(H) Number of off-street parking spaces or loading berths;

(I) Number of dwelling units;

(J) An approved tap permit for public water and sanitary sewer services, or if such services are not available, a certificate of approval from the Miami County Health Department or Ohio Environmental Protection Agency for the installation or upgrade of private on-site sanitary sewer facilities and/or for the proposed method of water supply.

(K) Such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter. The Planning Director or authorized representative may waive certain requirements where information is deemed unnecessary because of the nature of minor construction, and may require additional information not referenced herein which may be necessary for proper review to determine compliance with the provisions of this chapter.

(1974 Code, § 154.176) (Ord. 26-93, passed 8-16-1993; Am. Ord. 13-98, passed 5-4-1998)

### **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.207 APPROVAL OF ZONING PERMIT.**

#### **§ 154.207 APPROVAL OF ZONING PERMIT.**

All zoning permits shall, however, be conditional upon the commencement of work within 1 year. One copy of the plans shall be returned to the applicant by the Zoning Enforcement Officer, after the Zoning Enforcement Officer shall have marked such copy either



as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Zoning Enforcement Officer. The Zoning Enforcement Officer shall issue a placard, to be posted in a conspicuous place on the property in question, attesting to the fact that the use or alteration is in conformance with the provisions of this chapter.

(1974 Code, § 154.177) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION  
AND ENFORCEMENT / § 154.208 EXPIRATION OF ZONING PERMIT.**

**§ 154.208 EXPIRATION OF ZONING PERMIT.**

If the work described in any zoning permit has not begun within 1 year from the date of issuance thereof, said permit shall expire; it shall be revoked by the Zoning Enforcement Officer; and written notice thereof shall be given to the persons affected. If the work described in any zoning permit has not been substantially completed within 2½ years of the date of issuance thereof, said permit shall expire and be revoked by the Zoning Enforcement Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new zoning permit has been obtained or extension granted.

(1974 Code, § 154.178) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION  
AND ENFORCEMENT / § 154.209 CERTIFICATE OF OCCUPANCY.**

**§ 154.209 CERTIFICATE OF OCCUPANCY.**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued thereof by the Zoning Enforcement Officer stating that the proposed use of the building or land conforms to the requirements of this chapter.

(A) *Application for occupancy certificate.* Every application for a building permit or zoning permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new use of land when no building permit is required

shall be made directly to the Zoning Enforcement Officer.

(B) *Certificate of occupancy punch list.* Prior to the issuance of a certificate of occupancy the following items must be completed, inspected, and approved by the city:

- (1) Sod shall be planted within all public rights-of-way,
- (2) All requirements of the Maintenance Deposit Fee be complied with,
- (3) All punch list items shall be corrected,
- (4) Penalty, see § 154.999.

(C) *Issuance of occupancy certificate.* The occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than 14 days after the Zoning Enforcement Officer is notified in writing that the building or premises is ready for occupancy.

(1974 Code, § 154.179) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-02, passed 4-15-2002)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION  
AND ENFORCEMENT / § 154.210 TEMPORARY CERTIFICATE OF OCCUPANCY.**

**§ 154.210 TEMPORARY CERTIFICATE OF OCCUPANCY.**

A temporary certificate of occupancy may be issued by the Zoning Enforcement Officer for a period not exceeding 6 months during alterations or partial occupancy of a building pending its completion.

(1974 Code, § 154.180) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION  
AND ENFORCEMENT / § 154.211 RECORD OF ZONING PERMITS AND  
CERTIFICATES OF OCCUPANCY.**

**§ 154.211 RECORD OF ZONING PERMITS AND CERTIFICATES OF OCCUPANCY.**

The Zoning Enforcement Officer shall maintain a record of all zoning permits and certificates of occupancy and copies shall be furnished upon request to any person.

(1974 Code, § 154.181) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.212 FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF OCCUPANCY.**

**§ 154.212 FAILURE TO OBTAIN A ZONING PERMIT OR CERTIFICATE OF OCCUPANCY.**

Failure to obtain a zoning permit or certificate of occupancy shall be a violation of this chapter and punishable under § 154.999 of this chapter.

(1974 Code, § 154.182) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.213 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES.**

**§ 154.213 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES.**

Zoning permits or certificates of occupancy issued on the basis of plans and applications approved by the Zoning Enforcement Officer authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto, and no other use, arrangement, or construction. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of this chapter, and punishable as provided in § 154.999 of this chapter.

(1974 Code, § 154.183) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.214 COMPLAINTS REGARDING VIOLATIONS.**

**§ 154.214 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Enforcement Officer. The Zoning Enforcement Officer shall record

properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

(1974 Code, § 154.184) (Ord. 26-93, passed 8-16-1993)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.215 FEES.**

**§ 154.215 FEES.**

(A) Any application under this chapter for a zoning permit, zoning map or text amendment, certificate of occupancy, special use permit, planned development review, sign permit, appeal or variance shall be accompanied by such fee as shall be specified from time to time by ordinance of the City Council. There shall be no fee, however, in the case of applications filed by the City Council or the Planning Board.

(B) The fees shall be in addition to any other fees which are imposed by the city or Miami County.

(C) Such fees are adopted to cover the cost to the city of investigations, legal advertising, postage and other expenses resulting from the administration of the respective zoning activities. Until all applicable fees have been paid in full, no action shall be taken on any application or appeal.

(1974 Code, § 154.186) (Ord. 26-93, passed 8-16-1993)

***Cross-reference:***

*Schedule of fees, see Appendix C following this chapter*

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / ADMINISTRATION AND ENFORCEMENT / § 154.999 PENALTY.**

**§ 154.999 PENALTY.**

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in various section of this chapter, shall constitute a misdemeanor. Each day such violation continues after receipt of a violation notice, shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person

who commits, participates in, or assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(1974 Code, § 154.185) (Ord. 26-93, passed 8-16-1993)

(B) Whoever violates any provision of §§ 154.090 through 154.106, for which another penalty is not already provided, shall be fined not less than \$25 nor more than \$200, or imprisoned not more than 30 days, or both; and in addition, the person shall pay all costs and expenses involved in the case. Each day's violation shall constitute a separate offense.

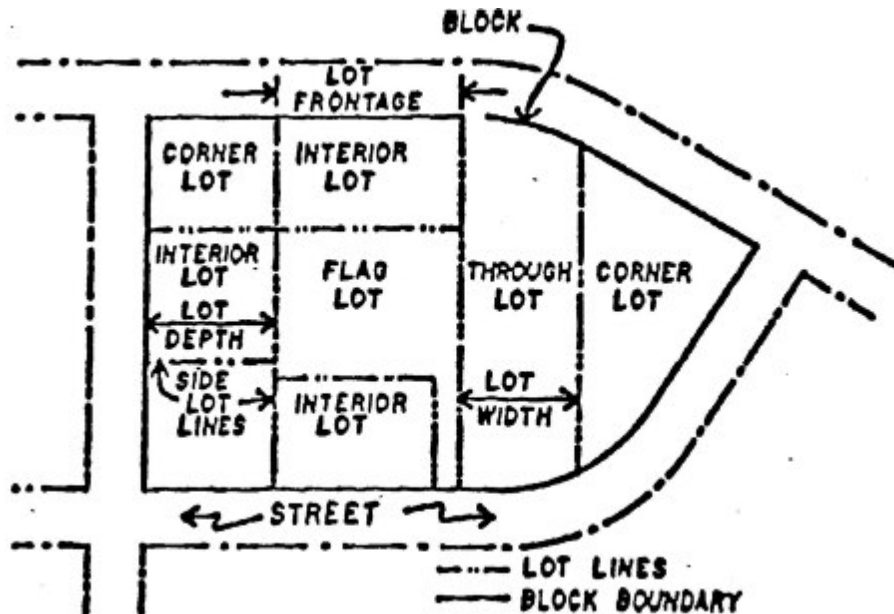
(C) Whoever violates § 154.052 is guilty of a minor misdemeanor. Each day's violation shall constitute a separate offense.

(Ord. 42-03, passed 12-15-2003)

## **TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX A: FIGURES**

### **APPENDIX A: FIGURES**

Figure I: Diagram illustrating the various types of lots



The diagram shows a rectangular lot with various setback lines and a building footprint. Key labels include:

- Street Right-of-Way**: The area at the bottom of the lot.
- FRONT LOT LINE**: The boundary between the lot and the street right-of-way.
- FRONT YARD (SETBACK)**: The required open space between the front lot line and the building.
- BUILDING COVERAGE**: The portion of the lot occupied by the building.
- REAR LOT LINE**: The boundary at the back of the lot.
- REAR YARD (SETBACK)**: The required open space between the rear lot line and the building.
- BUILDABLE AREA**: The area within the lot where a building can be constructed, bounded by the side and rear lot lines and the front setback.
- YARD LINES (SETBACK LINES)**: The lines defining the setbacks from the lot lines.
- REQUIRED YARD**: The area between the building and the rear lot line, which may be partially covered by the building.
- REQUIRED FRONT YARD**: The area between the building and the front lot line.

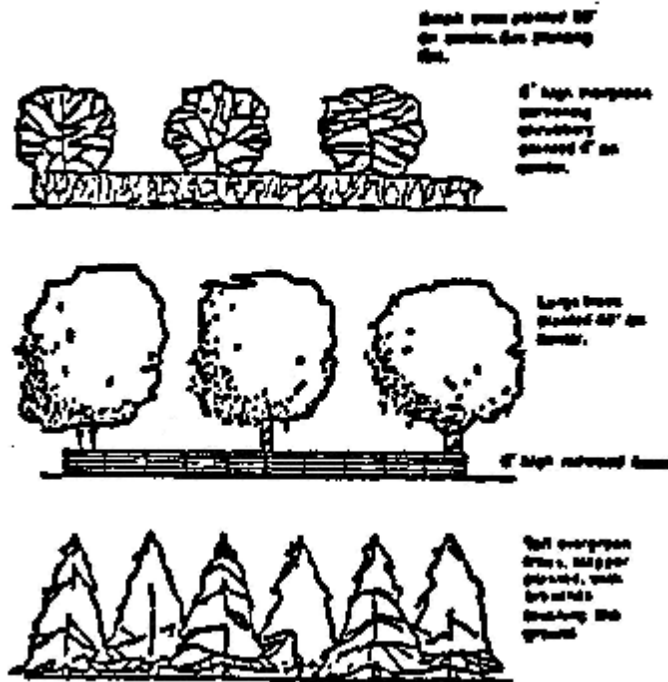
**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX B:  
SCHEDULE OF YARD AND LOT REQUIREMENTS**

(1974 Code, § 154.045) (Ord. 26-93, passed 8-16-1993; Am. Ord. 15-94, passed 6-20-1994)

## APPENDIX C: BUFFERYARD TYPE ILLUSTRATIONS

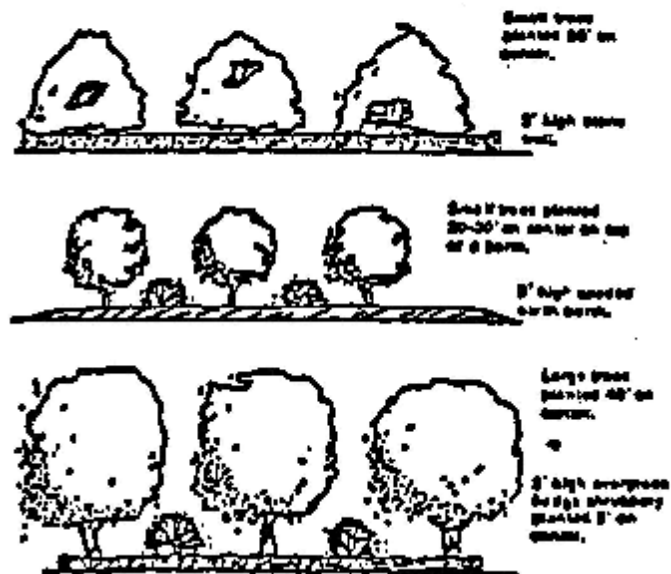
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## BUFFERYARD TYPE A ILLUSTRATIONS

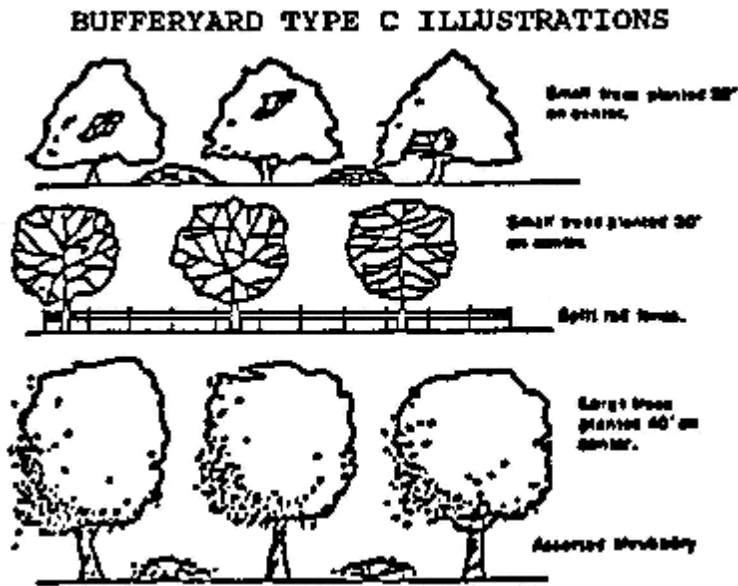


## BUFFERYARD TYPE B ILLUSTRATIONS

Bufferyard T



Bufferyard Type C Illustration



(1974 Code, § 154.061) (Ord. 26-93, passed 8-16-1993; Am. Ord. 22-94, passed 7-5-1994; Am. Ord. 23-94, passed 7-5-1994; Am. Ord. 14-02, passed 4-15-2002)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX D:  
CONTAMINANT HAZARD POTENTIAL RANKINGS**

***APPENDIX D: CONTAMINANT HAZARD POTENTIAL RANKINGS***

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX D:  
CONTAMINANT HAZARD POTENTIAL RANKINGS / TABLE 1**

**TABLE 1**

**Contaminant Hazard Potential Ranking Classified by Source**

<u>SIC NO.</u>	<u>DESCRIPTION OF WASTE SOURCE</u>	<u>RATING*</u>
	and Animal Specialties	(5 for Feed lots)
	Elsewhere Classified **	
	MINERALS, EXCEPT FUELS	
	Mining	4-7



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<u>SIC NO.</u>	<u>DESCRIPTION OF WASTE SOURCE</u>	<u>RATING*</u>
----------------	------------------------------------	----------------

	Except Fuels	2 - 5
--	--------------	-------

	Classified (Dredging, Especially	
--	----------------------------------	--

	EXCEPT LISTINGS BELOW	
--	-----------------------	--

	EXCEPT FURNITURE	
--	------------------	--

	Elsewhere Classified (laminated	
--	---------------------------------	--

	Classified	2 - 5
--	------------	-------

<u>SIC NO.</u>	<u>DESCRIPTION OF WASTE SOURCE</u>	<u>RATING*</u>
----------------	------------------------------------	----------------

	Not Elsewhere Classified	3 - 9
--	--------------------------	-------

	and Nonvulcanizable Elastomers	6 - 8
--	--------------------------------	-------

	Elastomers)	6 - 8
--	-------------	-------

	Cellulosic	6 - 8
--	------------	-------

	Products	3 - 8
--	----------	-------

	Specialty Cleaners	4 - 6
--	--------------------	-------

	Sanitation Preparation Finishing	3 - 8
--	----------------------------------	-------

	Agents, Sulfonated Oils and	
--	-----------------------------	--

	Assistants	6 - 8
--	------------	-------

	Toilet Preparations	3 - 6
--	---------------------	-------

	Enamels, and Allied Products	5 - 8
--	------------------------------	-------

	Intermediates, Dyes and Organic	
--	---------------------------------	--

	Pigments (Lakes and Toners)	6 - 9
--	-----------------------------	-------

	Elsewhere Listed	3 - 9
--	------------------	-------

	Chemicals, Not Elsewhere Listed	5 - 9
--	---------------------------------	-------

	Preparations, Not Elsewhere Listed	3 - 9
--	------------------------------------	-------

<u>SIC NO.</u>	<u>DESCRIPTION OF WASTE SOURCE</u>	<u>RATING*</u>
----------------	------------------------------------	----------------

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RELATED INDUSTRIES

(Remaining Three-Digit Codes) 1 - 3

EXCEPT MACHINERY AND

TRANSPORTATION EQUIPMENT

SIC NO.	DESCRIPTION OF WASTE SOURCE	RATING*
---------	-----------------------------	---------

	MACHINERY, EQUIPMENT AND	
--	--------------------------	--

	SUPPLIES (Except as Noted Below)	5 - 7
--	----------------------------------	-------

	CONTROLLING INSTRUMENTS;	
--	--------------------------	--

	PHOTOGRAPHIC, MEDICAL, AND	
--	----------------------------	--

	OPTICAL GOODS; WATCHES AND	
--	----------------------------	--

	CLOCKS (Except as Noted Below)	4 - 6
--	--------------------------------	-------

	INDUSTRIES	3 - 7
--	------------	-------

	SERVICES	
--	----------	--

NOTE: TABLE 2 IS INTENDED TO BE USED AS A GUIDE FOR DEVELOPING A RATING FOR EACH USE AND IS NOT INTENDED NOR EXPECTED TO BE AN ALL-INCLUSIVE LIST OF REGULATED SUBSTANCES.

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX D: CONTAMINANT HAZARD POTENTIAL RANKINGS / TABLE 2**

**TABLE 2**

CONTAMINANT HAZARD POTENTIAL RANKING

CLASSIFIED BY TYPE

DESCRIPTION	RATING*	ID NO.**SOLIDS
-------------	---------	----------------

Wood and Paper Materials (except as

Rubble, Construction, and

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Animal Processing Wastes (Except as

Live Animal Wastes-Raw

Putrescibles

LIQUIDS

Aliphatic Hydrocarbons

Aromatic Hydrocarbons (benzene

DESCRIPTION      RATING\*      ID NO.\*\*LIQUIDS

Organic Sulfur Compounds

Other Chemical Process Wastes not Previously

Agricultural Chemicals (Pesticides

Oils, Including Gasoline, Fuel

Other Organic or Inorganic

Chemicals, includes Radioactive

Conventional Treatment Process Municipal

DESCRIPTION      RATING\*      ID NO.\*\*LIQUIDS

Sludges

From Water Treatment and

Conditioning Plants (must be

\*      Hazard Potential Initial Rating

\*\*      ID Number is for identification of waste types in the Reporting Form.

1.      Classification based on material in Environmental Protection Agency Publication, 670-2-75-024, pp. 79-85, prepared by Arthur D. Little, Inc., and published in 1975.

2.      For individual material ranking, refer to solubility-toxicity tables prepared by Versar, Inc., for the Environmental Protection Agency (source: MDNR, June 1980).

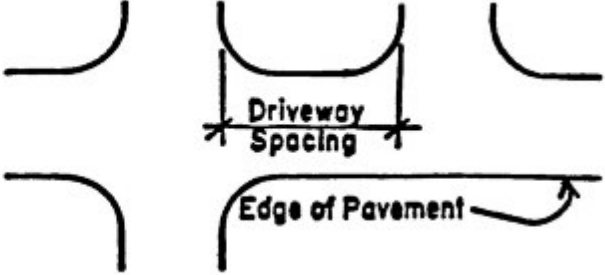
Source: WMSRDC. A Pollutant Nature Sampling Plan for Ground Water Contamination in Region 14 (Muskegon, Mich.: West Michigan Shoreline Regional Development Commission,

November 1980).

(1974 Code, § 154.063) (Ord. 30-94, passed 9-19-1994)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX E: TABLE 22-1 MINIMUM DRIVEWAY AND ROADWAY SPACING DISTANCES**

**APPENDIX E: TABLE 22-1 MINIMUM DRIVEWAY AND ROADWAY SPACING DISTANCES**

<u>Posted Speed Limit (mph)</u>	<u>Driveway Spacing (feet)</u>	
25	105	
30	125	
35	150	
40	185	
45	230	
50	275	

(1974 Code, § 154.080) (Ord. 26-93, passed 8-16-1993; Am. Ord. 45-02, passed 12-2-2002)

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX F: TABLE OF SIGN HEIGHT, AREA, SETBACK REQUIREMENTS AND FIGURES**

**APPENDIX F: TABLE OF SIGN HEIGHT, AREA, SETBACK REQUIREMENTS AND FIGURES**

RESIDENTIAL						
	Wall Signs Maximum Sq. Ft. Area	Wall Signs Maximum Height	Ground Signs Maximum Sq. Ft. Area	Ground Signs Maximum Height	Ground Signs Minimum Setback	Window Signs Maximum Sq. Ft. Area
Permanent Signs						
School/Church	20	8	15	6	10	Not permitted

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Day Care (Special Use)	8	8	8	6	10	Not permitted
Entry Feature Sign	Not permitted	N/A	20	6	10	Not permitted
Home Occupation Sign	1	8	N/A	N/A	N/A	Not permitted
<b>Temporary Signs</b>						
Development	Not permitted	N/A	32	6	0	Not permitted
Model Home	Not permitted	N/A	8	6	10	Not permitted
Residential For Sale/For Lease	Not permitted	N/A	7	4	0	7
<b>NON-RESIDENTIAL</b>						
	<b>Wall Signs Maximum Sq. Ft. Area</b>	<b>Wall Signs Maximum Height</b>	<b>Ground Signs Maximum Sq. Ft. Area</b>	<b>Ground Signs Maximum Height</b>	<b>Ground Signs Minimum Setback</b>	<b>Window Signs Maximum Sq. Ft. Area</b>
<b>Permanent Signs</b>						
School, Church, Library	20	8	15	6	10	Not permitted
Development	32	8	32	6	10	Not permitted
Day Care, Nursing Homes	20	8	15	6	10	Not permitted
Office (Admin./ Professional)	50	No limit, but cannot exceed roof line	50	6**	10	25% with a maximum of 8 sq. ft. whichever is less

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General Commerce (Retail, Restaurant***, Lodging, Consumer Service, Personal Service, Industrial, Entertainment, Sexually Oriented Business, Wholesaling, Bank, Hospital, Manufacturing, Research)	80	No limit, but cannot exceed roof line	50	6**	10	25% with a maximum of 8 sq. ft. whichever is less
*Joint Identification, Shopping Center	Not permitted	N/A	80	6**	10	Not permitted
Service Stations	80 See § 154.101 (J)	15 See § 154.101 (J)	50 See § 154.101 (J)	6** See § 154.101 (J)	10 See § 154.101 (J)	25% with a maximum of 6 sq. ft. whichever is less. See § 154.101 (J)
	<b>Wall Signs Maximum Sq. Ft. Area</b>	<b>Wall Signs Maximum Height</b>	<b>Ground Signs Maximum Sq. Ft. Area</b>	<b>Ground Signs Maximum Height</b>	<b>Ground Signs Minimum Setback</b>	<b>Window Signs Maximum Sq. Ft. Area</b>
<b>Temporary Signs</b>						
Advertising Signs	32	15	32	15	10	32
Banners	30	15	30	15	10	30
Commercial and Industrial For Sale/For Lease	See § 154.098 (K)	See § 154.098 (K)	See § 154.098 (K)	See § 154.098 (K)	See § 154.098 (K)	See § 154.098 (K)
Sidewalk Signs in the CC District	N/A	N/A	15	5	5	N/A

Note: See § 154.101 for signs heights for “Signs with Special Conditions.”

\* Joint Identification and Shopping Center signs are the only freestanding signs permitted.

\*\* See § 154.100(B)(3) for high-rise sign information for properties abutting Interstate 75.

Tipp City, Ohio Code of Ordinances

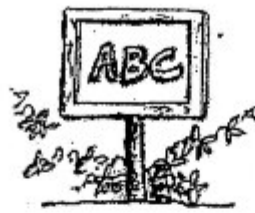
\*\*\* See § 154.101(L) for drive-thru menu boards.

(Ord. 42-03, passed 12-15-2003; Am. Ord. 05-06, passed 2-21-2006)

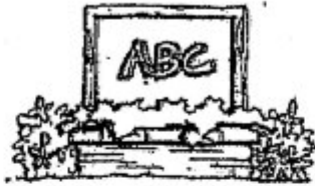
**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX F: TABLE  
OF SIGN HEIGHT, AREA, SETBACK REQUIREMENTS AND FIGURES / FIGURE 1:  
SIGN TYPES**

**FIGURE 1: SIGN TYPES**

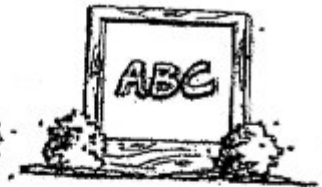
Types of GROUND SIGNS:



Pole/Pylon Sign

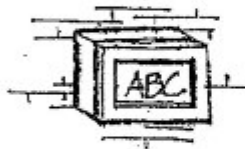


Planter Sign

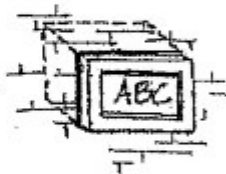


Monument Sign

Types of WALL SIGNS:



Recessed



Surface Mount

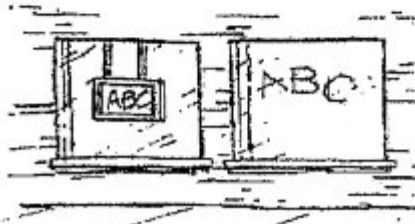


Channel Letter

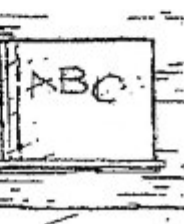


Raceway Mount

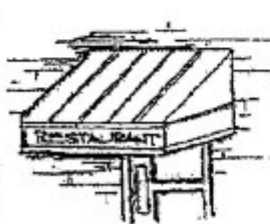
Types of WINDOW SIGNS:



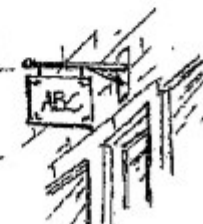
Illuminated



Non-Illuminated



Canopy Sign



Projecting Sign

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX F: TABLE OF SIGN HEIGHT, AREA, SETBACK REQUIREMENTS AND FIGURES / FIGURE 2: SIGN AREA CALCULATIONS**

**FIGURE 2: SIGN AREA CALCULATIONS**

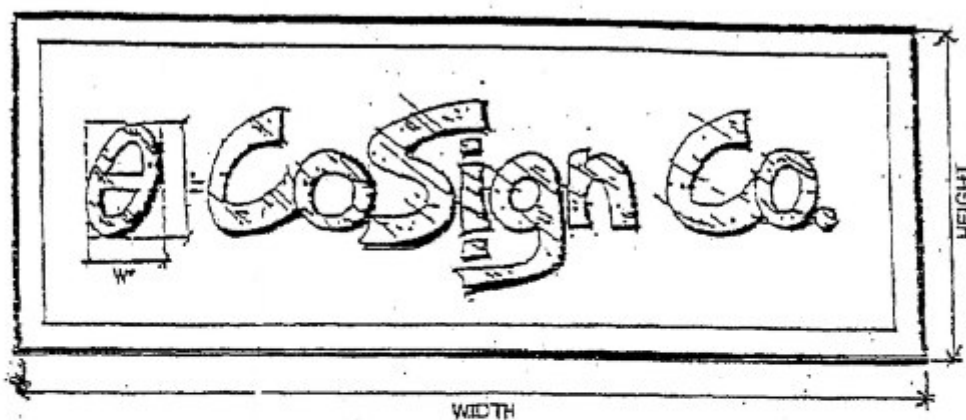


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HEIGHT x WIDTH Equals Area of Sign

H\* x W\* Equals Area of Secondary Image

Flat/Cabinet Sign Faces



Channel/Individual Letter Signs



**Note:** The area of the Secondary Image (S.I.) cannot exceed 20% of the Maximum Permitted Area of a given sign.

**Example:** If a sign has a MAXIMUM PERMITTED AREA of 100 square feet (S.F.), the maximum allowable size of the S.I. is 20 S.F. regardless of the actual size of the sign.

**TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX F: TABLE OF SIGN HEIGHT, AREA, SETBACK REQUIREMENTS AND FIGURES / FIGURE 3: PRIMARY & SECONDARY IMAGES**

**FIGURE 3: PRIMARY & SECONDARY IMAGES**



**Primary Image:** The name of the use of business identified on a sign. The primary image must be displayed in text.

**Secondary Image:** Any and all text, graphics, or images displayed on a sign in addition to the name of the use or business, including but not limited to pictorial representations, tag lines, products, logos and phone numbers.

## TITLE XV: LAND USAGE / CHAPTER 154: ZONING CODE / APPENDIX G: FEES

### APPENDIX G: FEES

The following schedule of fees is hereby enacted for certain applications and permits from the city. Fees are to be paid at the time the application/permit/appeal/petition is filed. An application filed pursuant to the provisions of this chapter shall be accompanied by the filing fee hereinafter specified. For each application, petition or appeal, the fee shall be paid to and collected by the Administrative Officer, the receipt of which shall accompany the application, petition or appeal. No part of any filing fee paid pursuant to this chapter shall be returnable to the applicant. This schedule of fees may be altered or amended only by the City Council.

(A)	<i>Zoning Permits</i>	<i>Fee</i>
(1)	Residential New Construction	\$150
(2)	Residential Additions (including attached garages)	\$ 50
(3)	Commercial, Industrial New Construction and Additions	\$150
(4)	Detached Garages, Sheds, Decks, Satellite Dishes, Other Accessory, Miscellaneous, or Temporary Structures	\$ 40
(5)	Swimming Pools	\$ 40

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- (6) Fence Permits \$ 25
- (7) Chance of Use/Occupancy \$ 40
- (8) Signs - Base fee of \$ 25

PLUS area fee of \$0.25 per square foot (each side)

*Note: there will be no charge for bringing a*

*non-conforming*

*sign into compliance with code*

- (9) Temporary Signs \$ 10
- (10) Administrative charge for Miami County building permits, if ZCP fee not charged. \$ 5
- (11) Re-inspection Fee (after second inspection) \$ 50

(B) *Alley Vacations*

\$35 plus the petitioner is responsible for payment of all recording fees and publication fees.

(C) *Planning Board Site Plan and Application Review Filing Fee*

(including Home Occupations, Special Uses, etc.) \$ 25

(D) *Rezoning* \$150

(E) *Variances* \$ 75

(F) *Restoration Board Application and/or Certificate of Appropriateness* \$ 0

(G) *Replats and Lot Splits*

For a split of 1 lot into 2 lots or a replat of 2 lots into 1 \$ 75

For each additional lot being requested over 2 lots \$ 25 each

(H) *Plats/Subdivisions*

(1) Preliminary Minor \$100

Major \$500

(2) Final Minor and Major - Base fee \$200

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PLUS \$5 per lot in plat/subdivision

(3) Engineering Review Fees

0.5% (0.005) of approved Engineers estimate for public improvements

(4) Inspection Fees

2.0% (0.02) of approved Engineers estimate for public improvements

(5) Park Fees (see § 155.072)

(6) Street Cleaning/Cash Deposit (see § 155.103(C))

(I) *Other Permits and Fees*

(1) Demolition Permits \$ 40

(2) Blasting Permits \$ 50

(3) House Moving Permits (plus any other city incurred costs) \$ 50

(4) Dumpster Permit (within ROW) \$ 25

(5) Contractor Registration/Work within ROW \$ 75

(6) Main Street Banners \$ 0

(7) Street Closures (aka Block Parties) \$ 0

(8) Solicitor's and Peddlers Permit/Fee (See § 110.05)

(J) *Street Cutting*

(1) Street Cut Deterioration Fee - \$7.50 fee per linear foot will be charged any time a 448/404 asphalt or slurry sealed street surface is cut or trenched.

(2) Replacement Fee - A charge of \$20 per lineal foot shall be charged for all asphalt patching necessary as determined by the City Engineer or his or her designee. The firm or person making a cut shall backfill with compacted ODOT 304 aggregate base and a minimum of 3" of 448/404 asphalt. Low strength mortar backfill shall be used when cutting a principal roadway in lieu of 304 aggregate backfill/base. ODOT 301/403/448/404 shall be at least equal to the existing pavement, but no less than the minimum specified in the Tipp City subdivision regulations for type of street cut. The Street Department will fill in the patch with asphalt when appropriate. With special permission from the City Engineer, the

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constructing firm may be permitted to do its own patching and thus pay only the street cut deterioration fee.